

WSR 10-09-055
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Health and Recovery Services Administration)
 [Filed April 16, 2010, 7:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-06-116.

Title of Rule and Other Identifying Information: WAC 388-535-1084 Covered dental-related services for clients through age twenty—Restorative services, 388-535-1090 Covered dental-related services for clients through age twenty—Prosthodontics (removable), 388-535-1100 Dental-related services not covered for clients through age twenty, 388-535-1261 Covered dental-related services for clients age twenty-one and older—Endodontic services, 388-535-1266 Covered dental-related services for clients age twenty-one and older—Prosthodontics (removable), 388-535-1267 Covered dental-related services for clients age twenty-one and older—Oral and maxillofacial surgery services, 388-535-1269 Covered dental-related services for clients age twenty-one and older—Adjunctive general services, and 388-535-1271 Dental-related services not covered for clients age twenty-one and older.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on June 8, 2010, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 9, 2010.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 8, 2010.

Assistance for Persons with Disabilities: Contact Jennifer Johnson, DSHS rules consultant, by May 25, 2010, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending sections in chapter 388-535 WAC in order to, for clients through age twenty, reduce coverage of restorative services (crowns) and reduce coverage for repairs to partial dentures; for clients age twenty-one and older, reduce coverage for endodontic treatment and oral and maxillofacial surgery; and for all clients, reduce coverage for partial dentures. The amendments also update and clarify other language in this chapter.

Reasons Supporting Proposal: These amendments are necessary for the department to fully meet the legislatively mandated appropriation reduction in section 1109, chapter 564, Laws of 2009 (ESHB 1244) for dental and dental-related services for fiscal years 2010-2011, and to further clarify the department's coverage policy.

Statutory Authority for Adoption: Section 1109, chapter 564, Laws of 2009 (ESHB 1244), RCW 74.08.090 and 74.09.800.

Statute Being Implemented: RCW 74.08.090.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1342; Implementation and Enforcement: Dr. John Davis, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1748.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department analyzed the proposed rule amendments and concludes that they will impose no new costs on small businesses. The preparation of a comprehensive small business economic impact statement is not required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Dr. John Davis, Program Manager, HRSA/DHS, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-1748, fax (360) 586-1590, e-mail johndavis2@dshs.wa.gov.

April 1, 2010
 Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-06-042, filed 3/1/07, effective 4/1/07)

WAC 388-535-1084 Covered dental-related services for clients through age twenty—Restorative services. The department covers medically necessary dental-related restorative services, subject to the coverage limitations listed, for clients through age twenty as follows:

(1) **Restorative/operative procedures.** The department covers restorative/operative procedures performed in a hospital or an ambulatory surgical center for:

- (a) Clients ages eight and younger;
- (b) Clients ages nine through twenty only on a case-by-case basis and when prior authorized; and
- (c) Clients of the division of developmental disabilities according to WAC 388-535-1099.

(2) **Amalgam restorations for primary and permanent teeth.** The department considers:

(a) Tooth preparation, all adhesives (including amalgam bonding agents), liners, bases, and polishing as part of the amalgam restoration.

(b) The occlusal adjustment of either the restored tooth or the opposing tooth or teeth as part of the amalgam restoration.

(c) Buccal or lingual surface amalgam restorations, regardless of size or extension, as a one surface restoration. The department covers one buccal and one lingual surface per tooth.

(d) Multiple amalgam restorations of fissures and grooves of the occlusal surface of the same tooth as a one surface restoration.

(e) Amalgam restorations placed within six months of a crown preparation by the same provider or clinic to be included in the payment for the crown.

(3) **Amalgam restorations for primary posterior teeth only.** The department covers amalgam restorations for a maximum of two surfaces for a primary first molar and maximum of three surfaces for a primary second molar. (See subsection (9)(c) of this section for restorations for a primary posterior tooth requiring additional surfaces.) The department does not pay for additional amalgam restorations.

(4) **Amalgam restorations for permanent posterior teeth only.** The department:

(a) Covers two occlusal amalgam restorations for teeth one, two, three fourteen, fifteen, and sixteen, if the restorations are anatomically separated by sound tooth structure.

(b) Covers amalgam restorations for a maximum of five surfaces per tooth for a permanent posterior tooth, once per client, per provider or clinic, in a two-year period.

(c) Covers amalgam restorations for a maximum of six surfaces per tooth for teeth one, two, three, fourteen, fifteen, and sixteen, once per client, per provider or clinic, in a two-year period (see (a) of this subsection).

(d) Does not pay for replacement of amalgam restoration on permanent posterior teeth within a two-year period unless the restoration has an additional adjoining carious surface. The department pays for the replacement restoration as one multi-surface restoration. The client's record must include radiographs and documentation supporting the medical necessity for the replacement restoration.

(5) **Resin-based composite restorations for primary and permanent teeth.** The department:

(a) Considers tooth preparation, acid etching, all adhesives (including resin bonding agents), liners and bases, polishing, and curing as part of the resin-based composite restoration.

(b) Considers the occlusal adjustment of either the restored tooth or the opposing tooth or teeth as part of the resin-based composite restoration.

(c) Considers buccal or lingual surface resin-based composite restorations, regardless of size or extension, as a one surface restoration. The department covers only one buccal and one lingual surface per tooth.

(d) Considers resin-based composite restorations of teeth where the decay does not penetrate the dentoenamel junction (DEJ) to be sealants (see WAC 388-535-1082(4) for sealants coverage).

(e) Considers multiple preventive restorative resin, flowable composite resin, or resin-based composites for the occlusal, buccal, lingual, mesial, and distal fissures and grooves on the same tooth as a one surface restoration.

(f) Does not cover preventive restorative resin or flowable composite resin on the interproximal surfaces (mesial and/or distal) when performed on posterior teeth or the incisal surface of anterior teeth.

(g) Considers resin-based composite restorations placed within six months of a crown preparation by the same provider or clinic to be included in the payment for the crown.

(6) **Resin-based composite restorations for primary teeth only.** The department covers:

(a) Resin-based composite restorations for a maximum of three surfaces for a primary anterior tooth (see subsection (9)(b) of this section for restorations for a primary anterior tooth requiring a four or more surface restoration). The department does not pay for additional composite or amalgam restorations on the same tooth after three surfaces.

(b) Resin-based composite restorations for a maximum of two surfaces for a primary first molar and a maximum of three surfaces for a primary second molar. (See subsection (9)(c) of this subsection for restorations for a primary posterior tooth requiring additional surfaces.) The department does not pay for additional composite restorations on the same tooth.

(c) Glass ((ionomer)) ionomer restorations only for primary teeth, and only for clients ages five and younger. The department pays for these restorations as a one surface resin-based composite restoration.

(7) **Resin-based composite restorations for permanent teeth only.** The department covers:

(a) Two occlusal resin-based composite restorations for teeth one, two, fourteen, fifteen, and sixteen if the restorations are anatomically separated by sound tooth structure.

(b) Resin-based composite restorations for a maximum of five surfaces per tooth for a permanent posterior tooth, once per client, per provider or clinic, in a two-year period.

(c) Resin-based composite restorations for a maximum of six surfaces per tooth for permanent posterior teeth one, two, three, fourteen, fifteen, and sixteen, once per client, per provider or clinic, in a two-year period (see (a) of this subsection).

(d) Resin-based composite restorations for a maximum of six surfaces per tooth for a permanent anterior tooth, once per client, per provider or clinic, in a two-year period.

(e) Replacement of resin-based composite restoration on permanent teeth within a two-year period only if the restoration has an additional adjoining carious surface. The department pays the replacement restoration as a one multi-surface restoration. The client's record must include radiographs and documentation supporting the medical necessity for the replacement restoration.

(8) **Crowns.** The department:

(a) Covers the following crowns once every five years, per tooth, for permanent anterior teeth for clients ages twelve through twenty when the crowns meet prior authorization criteria in WAC 388-535-1220 and the provider follows the prior authorization requirements in (d) of this subsection:

(i) Porcelain/ceramic crowns to include all porcelains, glasses, glass-ceramic, and porcelain fused to metal crowns; and

(ii) Resin crowns and resin metal crowns to include any resin-based composite, fiber, or ceramic reinforced polymer compound.

(b) ((Covers full coverage metal crowns once every five years, per tooth, for permanent posterior teeth to include high noble, titanium, titanium alloys, noble, and predominantly base metal crowns for clients ages eighteen through twenty when they meet prior authorization criteria and the provider follows the prior authorization requirements in (d) and (e) of this subsection.))

((e))) Considers the following to be included in the payment for a crown:

(i) Tooth and soft tissue preparation;

(ii) Amalgam and resin-based composite restoration, or any other restorative material placed within six months of the crown preparation. Exception: The department covers a one surface restoration on an endodontically treated tooth, or a core buildup or cast post and core;

(iii) Temporaries, including but not limited to, temporary restoration, temporary crown, provisional crown, temporary prefabricated stainless steel crown, ion crown, or acrylic crown;

(iv) Packing cord placement and removal;

(v) Diagnostic or final impressions;

(vi) Crown seating (placement), including cementing and insulating bases;

(vii) Occlusal adjustment of crown or opposing tooth or teeth; and

(viii) Local anesthesia.

((f))) (c) Requires the provider to submit the following with each prior authorization request:

(i) Radiographs to assess all remaining teeth;

(ii) Documentation and identification of all missing teeth;

(iii) Caries diagnosis and treatment plan for all remaining teeth, including a caries control plan for clients with rampant caries;

(iv) Pre- and post-endodontic treatment radiographs for requests on endodontically treated teeth; and

(v) Documentation supporting a five-year prognosis that the client will retain the tooth or crown if the tooth is crowned.

((e))) (d) Requires a provider to bill for a crown only after delivery and seating of the crown, not at the impression date.

(9) **Other restorative services.** The department covers:

(a) All recementations of permanent indirect crowns.

(b) Prefabricated stainless steel crowns with resin window, resin-based composite crowns, prefabricated esthetic coated stainless steel crowns, and fabricated resin crowns for primary anterior teeth once every three years without prior authorization if the tooth requires a four or more surface restoration.

(c) Prefabricated stainless steel crowns for primary posterior teeth once every three years without prior authorization if:

(i) Decay involves three or more surfaces for a primary first molar;

(ii) Decay involves four or more surfaces for a primary second molar; or

(iii) The tooth had a pulpotomy.

(d) Prefabricated stainless steel crowns for permanent posterior teeth once every three years when prior authorized.

(e) Prefabricated stainless steel crowns for clients of the division of developmental disabilities according to WAC 388-535-1099.

(f) Core buildup, including pins, only on permanent teeth, when prior authorized at the same time as the crown prior authorization.

(g) Cast post and core or prefabricated post and core, only on permanent teeth, when prior authorized at the same time as the crown prior authorization.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 07-06-042, filed 3/1/07, effective 4/1/07)

WAC 388-535-1090 Covered dental-related services for clients through age twenty—Prosthodontics (removable). The department covers medically necessary prosthodontics (removable) services, subject to the coverage limitations listed, for clients through age twenty as follows:

(1) **Prosthodontics.** The department:

(a) Requires prior authorization for all removable prosthodontic and prosthodontic-related procedures, except as stated in (c)(ii)(B) of this subsection. Prior authorization requests must meet the criteria in WAC 388-535-1220. In addition, the department requires the dental provider to submit:

(i) Appropriate and diagnostic radiographs of all remaining teeth.

(ii) A dental record which identifies:

(A) All missing teeth for both arches;

(B) Teeth that are to be extracted; and

(C) Dental and periodontal services completed on all remaining teeth.

(iii) A prescription written by a dentist when a denturist's prior authorization request is for an immediate denture or a cast metal partial denture.

(b) Covers complete dentures, as follows:

(i) A complete denture, including an immediate denture or overdenture, is covered when prior authorized.

(ii) Three-month post-delivery care (e.g., adjustments, soft relines, and repairs) from the seat (placement) date of the complete denture, is considered part of the complete denture procedure and is not paid separately.

(iii) Replacement of an immediate denture with a complete denture is covered if the complete denture is prior authorized at least six months after the seat date of the immediate denture.

(iv) Replacement of a complete denture or overdenture is covered only if prior authorized at least five years after the seat date of the complete denture or overdenture being replaced. The replacement denture must be prior authorized.

(c) Covers partial dentures, as follows:

(i) A partial denture, including a resin ((or flexible base)) partial denture, is covered for anterior and posterior teeth when the partial denture meets the following department coverage criteria.

(A) The remaining teeth in the arch must have a reasonable periodontal diagnosis and prognosis;

(B) The client has established caries control;

(C) One or more anterior teeth are missing or four or more posterior teeth are missing;

(D) There is a minimum of four stable teeth remaining per arch; and

(E) There is a three-year prognosis for retention of the remaining teeth.

(ii) Prior authorization of partial dentures:

(A) Is required for clients ages nine and younger; and
 (B) Not required for clients ages ten through twenty.

Documentation supporting the medical necessity for the service must be included in the client's file.

(iii) Three-month post-delivery care (e.g., adjustments, soft relines, and repairs) from the seat date of the partial denture, is considered part of the partial denture procedure and is not paid separately.

(iv) Replacement of a resin or flexible base denture is covered only if prior authorized at least three years after the seat date of the resin or flexible base partial denture being replaced. The replacement denture must be prior authorized and meet department coverage criteria in (c)(i) of this subsection.

(d) Covers cast-metal framework partial dentures, as follows:

(i) Cast-metal framework with resin-based partial dentures, including any conventional clasps, rests, and teeth, are covered for clients ages eighteen through twenty only once in a five-year period, on a case-by-case basis, when prior authorized and department coverage criteria listed in subsection (d)(v) of this subsection are met.

(ii) Cast-metal framework partial dentures for clients ages seventeen and younger are not covered.

(iii) Three-month post-delivery care (e.g., adjustments, soft relines, and repairs) from the seat date of the cast metal partial denture is considered part of the partial denture procedure and is not paid separately.

(iv) Replacement of a cast metal framework partial denture is covered on a case-by-case basis and only if placed at least five years after the seat date of the partial denture being replaced. The replacement denture must be prior authorized and meet department coverage criteria listed in (d)(v) of this subsection.

(v) Department authorization and payment for cast metal framework partial dentures is based on the following criteria:

(A) The remaining teeth in the arch must have a stable periodontal diagnosis and prognosis;

(B) The client has established caries control;

(C) All restorative and periodontal procedures must be completed before the request for prior authorization is submitted;

(D) There are fewer than eight posterior teeth in occlusion;

(E) There is a minimum of four stable teeth remaining per arch; and

(F) There is a five-year prognosis for the retention of the remaining teeth.

(vi) The department may consider resin partial dentures as an alternative if the department determines the criteria for cast metal framework partial dentures listed in (d)(v) of this subsection are not met.

(e) Requires a provider to bill for removable prosthetic procedures only after the seating of the prosthesis, not at the impression date. Refer to subsection (2)(e) and (f) for what the department may pay if the removable prosthesis is not delivered and inserted.

(f) Requires a provider to submit the following with a prior authorization request for removable prosthetics for a client residing in an alternate living facility (ALF) as defined in WAC 388-513-1301 or in a nursing facility:

(i) The client's medical diagnosis or prognosis;

(ii) The attending physician's request for prosthetic services;

(iii) The attending dentist's or denturist's statement documenting medical necessity;

(iv) A written and signed consent for treatment from the client's legal guardian when a guardian has been appointed; and

(v) A completed copy of the denture/partial appliance request for skilled nursing facility client form (DSHS 13-788) available from the department's published billing instructions.

(g) Limits removable partial dentures to resin-based partial dentures for all clients residing in one of the facilities listed in (f) of this subsection. The department may consider cast metal partial dentures if the criteria in subsection (1)(d) are met.

(h) Requires a provider to deliver services and procedures that are of acceptable quality to the department. The department may recoup payment for services that are determined to be below the standard of care or of an unacceptable product quality.

(2) **Other services for removable prosthodontics.** The department covers:

(a) Adjustments to complete and partial dentures three months after the date of delivery.

(b) Repairs to complete and partial dentures, once in a twelve month period. The cost of repairs cannot exceed the cost of replacement. The department covers additional repairs on a case-by-case basis and when prior authorized.

(c) A laboratory reline or rebase to a complete or cast-metal partial denture, once in a three-year period when performed at least six months after the seating date. An additional reline or rebase may be covered for complete or cast-metal partial dentures on a case-by-case basis when prior authorized.

(d) Up to two tissue conditionings, and only when performed within three months after the seating date.

(e) Laboratory fees, subject to the following:

(i) The department does not pay separately for laboratory or professional fees for complete and partial dentures; and

(ii) The department may pay part of billed laboratory fees when the provider obtains prior authorization, and the client:

(A) Is not eligible at the time of delivery of the prosthesis;

(B) Moves from the state;

(C) Cannot be located;

(D) Does not participate in completing the complete, immediate, or partial dentures; or

(E) Dies.

(f) A provider must submit copies of laboratory prescriptions and receipts or invoices for each claim when billing for laboratory fees.

AMENDATORY SECTION (Amending WSR 07-06-042, filed 3/1/07, effective 4/1/07)

WAC 388-535-1100 Dental-related services not covered for clients through age twenty. (1) The department does not cover the following for clients through age twenty:

(a) The dental-related services described in subsection (2) of this section unless the services are covered under the early periodic screening, diagnosis and treatment (EPSDT) program. See WAC 388-534-0100 for information about the EPSDT program.

(b) Any service specifically excluded by statute.

(c) More costly services when less costly, equally effective services as determined by the department are available.

(d) Services, procedures, treatment, devices, drugs, or application of associated services:

(i) Which the department or the Centers for Medicare and Medicaid Services (CMS) considers investigative or experimental on the date the services were provided.

(ii) That are not listed as covered in one or both of the following:

(A) Washington Administrative Code (WAC).

(B) The department's current published documents.

(2) The department does not cover dental-related services listed under the following categories of service for clients through age twenty (see subsection (1)(a) of this section for services provided under the EPSDT program):

(a) **Diagnostic services.** The department does not cover:

(i) Extraoral radiographs.

(ii) Comprehensive periodontal evaluations.

(b) **Preventive services.** The department does not cover:

(i) Nutritional counseling for control of dental disease.

(ii) Tobacco counseling for the control and prevention of oral disease.

(iii) Removable space maintainers of any type.

(iv) Sealants placed on a tooth with the same-day occlusal restoration, preexisting occlusal restoration, or a tooth with occlusal decay.

(v) Space maintainers for clients ages nineteen through twenty.

(c) **Restorative services.** The department does not cover:

(i) Restorations for wear on any surface of any tooth without evidence of decay through the enamel or on the root surface:

(ii) Gold foil restorations.

((i))) (iii) Metallic, resin-based composite, or porcelain/ceramic inlay/onlay restorations.

((i))) (iv) Preventive restorations.

(v) Crowns for cosmetic purposes (e.g., peg laterals and tetracycline staining).

((i))) (vi) Permanent crowns for ((third molars one, sixteen, seventeen, and thirty two)) bicuspids or molar teeth.

((i))) (vii) Temporary or provisional crowns (including ion crowns).

((i))) (viii) Labial veneer resin or porcelain laminate restorations.

((i))) (ix) Any type of coping.

((i))) (x) Crown repairs.

((i))) (xi) Polishing or recontouring restorations or overhang removal for any type of restoration.

(d) **Endodontic services.** The department does not cover:

(i) Any endodontic therapy on primary teeth, except as described in WAC 388-535-1086 (3)(a).

(ii) Apexification/recalcification for root resorption of permanent anterior teeth.

(iii) Any apexification/recalcification procedures for bicuspid or molar teeth.

(iv) Any apicoectomy/periradicular services for bicuspid or molar teeth.

(v) Any surgical endodontic procedures including, but not limited to, retrograde fillings (except for anterior teeth), root amputation, reimplantation, and hemisections.

(e) **Periodontic services.** The department does not cover:

(i) Surgical periodontal services including, but not limited to:

(A) Gingival flap procedures.

(B) Clinical crown lengthening.

(C) Osseous surgery.

(D) Bone or soft tissue grafts.

(E) Biological material to aid in soft and osseous tissue regeneration.

(F) Guided tissue regeneration.

(G) Pedicle, free soft tissue, apical positioning, subepithelial connective tissue, soft tissue allograft, combined connective tissue and double pedicle, or any other soft tissue or osseous grafts.

(H) Distal or proximal wedge procedures.

(ii) Nonsurgical periodontal services including, but not limited to:

(A) Intracoronal or extracoronal provisional splinting.

(B) Full mouth or quadrant debridement.

(C) Localized delivery of chemotherapeutic agents.

(D) Any other type of nonsurgical periodontal service.

(f) **Removable prosthodontics.** The department does not cover:

(i) Removable unilateral partial dentures.

(ii) Any interim complete or partial dentures.

(iii) Flexible base partial dentures.

(iv) Any type of permanent soft reline (e.g., moloplast).

(v) Precision attachments.

((i))) (vi) Replacement of replaceable parts for semi-precision or precision attachments.

(g) **Implant services.** The department does not cover:

(i) Any type of implant procedures, including, but not limited to, any tooth implant abutment (e.g., periosteal implant, eposteal implant, and transosteal implant), abutments or implant supported crown, abutment supported retainer, and implant supported retainer.

(ii) Any maintenance or repairs to procedures listed in (g)(i) of this subsection.

(iii) The removal of any implant as described in (g)(i) of this subsection.

(h) **Fixed prosthodontics.** The department does not cover:

(i) Any type of fixed partial denture pontic or fixed partial denture retainer.

(ii) Any type of precision attachment, stress breaker, connector bar, coping, cast post, or any other type of fixed attachment or prosthesis.

(i) **Oral and maxillofacial surgery.** The department does not cover:

(i) Any oral surgery service not listed in WAC 388-535-1094.

(ii) Any oral surgery service that is not listed in the department's list of covered current procedural terminology (CPT) codes published in the department's current rules or billing instructions.

(j) **Adjunctive general services.** The department does not cover:

(i) Anesthesia, including, but not limited to:

(A) Local anesthesia as a separate procedure.

(B) Regional block anesthesia as a separate procedure.

(C) Trigeminal division block anesthesia as a separate procedure.

(D) Medication for oral sedation, or therapeutic intramuscular (IM) drug injections, including antibiotic and injection of sedative.

(E) Application of any type of desensitizing medicament or resin.

(ii) Other general services including, but not limited to:

(A) Fabrication of an athletic mouthguard.

(B) Occlusion analysis.

(C) Occlusal adjustment, tooth or restoration adjustment or smoothing, or odontoplasties.

(D) Enamel microabrasion.

(E) Dental supplies such as toothbrushes, toothpaste, floss, and other take home items.

(F) Dentist's or dental hygienist's time writing or calling in prescriptions.

(G) Dentist's or dental hygienist's time consulting with clients on the phone.

(H) Educational supplies.

(I) Nonmedical equipment or supplies.

(J) Personal comfort items or services.

(K) Provider mileage or travel costs.

(L) Fees for no-show, cancelled, or late arrival appointments.

(M) Service charges of any type, including fees to create or copy charts.

(N) Office supplies used in conjunction with an office visit.

(O) Teeth whitening services or bleaching, or materials used in whitening or bleaching.

AMENDATORY SECTION (Amending WSR 07-06-041, filed 3/1/07, effective 4/1/07)

WAC 388-535-1261 Covered dental-related services for clients age twenty-one and older—Endodontic services. The department covers dental-related endodontic services only as listed in this section for clients age twenty-one and older (for dental-related services provided to clients eligible under the GA-U or ADATSA program, see WAC 388-535-1065).

(1) **Pulpal debridement.** The department covers pulpal debridement on permanent teeth. Pulpal debridement is not

covered when performed with palliative treatment or when performed on the same day as endodontic treatment.

(2) **Endodontic treatment.** The department:

(a) Covers endodontic treatment for permanent anterior teeth only;

(b) Considers the following included in endodontic treatment:

(i) Pulpectomy when part of root canal therapy;

(ii) All procedures necessary to complete treatment; and

(iii) All intra-operative and final evaluation radiographs for the endodontic procedure.

(c) Pays separately for the following services that are related to the endodontic treatment:

(i) Initial diagnostic evaluation;

(ii) Initial diagnostic radiographs; and

(iii) Post treatment evaluation radiographs if taken at least three months after treatment.

((d) ~~Requires prior authorization for endodontic retreatment and considers endodontic retreatment to include:~~

~~(i) The removal of post(s), pin(s), old root canal filling material, and all procedures necessary to prepare the canals;~~

~~(ii) Placement of new filling material; and~~

~~(iii) Retreatment for permanent maxillary and mandibular anterior teeth only.~~

~~(e) Pays separately for the following services that are related to the endodontic retreatment:~~

~~(i) Initial diagnostic evaluation;~~

~~(ii) Initial diagnostic radiographs; and~~

~~(iii) Post treatment evaluation radiographs if taken at least three months after treatment.~~

~~(f) Does not pay for endodontic retreatment when provided by the original treating provider or clinic.)~~

AMENDATORY SECTION (Amending WSR 07-06-041, filed 3/1/07, effective 4/1/07)

WAC 388-535-1266 Covered dental-related services for clients age twenty-one and older—Prosthodontics (removable). The department covers dental-related prosthodontics (removable) services only as listed in this section for clients age twenty-one and older (for dental-related services provided to clients eligible under the GA-U or ADATSA program, see WAC 388-535-1065).

(1) **Removable prosthodontics.** The department:

(a) Requires prior authorization requests for all removable prosthodontics and prosthodontic-related procedures listed in this subsection. Prior authorization requests must meet the criteria in WAC 388-535-1280. In addition, the department requires the dental provider to:

(i) Submit:

(A) Appropriate and diagnostic radiographs of all remaining teeth.

(B) A dental record that identifies:

(I) All missing teeth for both arches;

(II) Teeth that are to be extracted; and

(III) Dental and periodontal services completed on all remaining teeth.

(C) A prescription written by a dentist when a denturist's prior authorization request is for an immediate denture or cast metal partial denture.

(ii) Obtain a signed agreement of acceptance from the client at the conclusion of the final denture try-in for a department authorized complete denture or a cast-metal denture described in this section. If the client abandons the complete denture or the cast-metal partial denture after signing the agreement of acceptance, the department will deny subsequent requests for the same type dental prosthesis if the request occurs prior to the dates specified in this section. A copy of the signed agreement that documents the client's acceptance of the dental prosthesis must be submitted to the department's dental prior authorization section before the department pays the claim.

(b) Covers a complete denture, as follows:

(i) A complete denture, including an immediate denture or overdenture, is covered when prior authorized and the complete denture meets department coverage criteria;

(ii) Post-delivery care (e.g., adjustments, soft relines, and repairs) provided within three months of the seat date of a complete denture, is considered part of the complete denture procedure and is not paid separately;

(iii) Replacement of an immediate denture with a complete denture is covered only when the replacement occurs at least six months from the seat date of the immediate denture. The replacement complete denture must be prior authorized; and

(iv) Replacement of a complete denture or overdenture is covered only when the replacement occurs at least five years from the seat date of the complete denture or overdenture being replaced. The replacement denture must be prior authorized.

(c) Covers partial dentures as follows:

(i) Department authorization and payment for a resin ((or flexible)) base partial denture for anterior and posterior teeth is based on the following criteria:

(A) The remaining teeth in the arch must have a reasonable periodontal diagnosis and prognosis;

(B) The client has established caries control;

(C) One or more anterior teeth are missing, or four or more posterior teeth, excluding second and third molars, per arch are missing. The department does not pay for replacement of second or third molars;

(D) There is a minimum of four stable teeth remaining per arch; and

(E) There is a three-year prognosis for retention of all remaining teeth.

(ii) Post-delivery care (e.g. adjustments, soft relines, and repairs) provided after three months from the seat date of the partial denture, is considered part of the partial denture and is not paid separately; and

(iii) Replacement of a resin ((or flexible)) base denture is covered only when the replacement occurs at least three years from the seat date of the partial denture being replaced. The replacement denture must be prior authorized and meet department coverage criteria.

(d) Covers cast metal framework partial dentures as follows:

(i) A cast metal framework with resin-based denture, including any conventional clasps, rests, and teeth, is covered on a case-by-case basis when prior authorized and depart-

ment coverage criteria listed in (d)(iv) of this subsection are met.

(ii) Post-delivery care (e.g., adjustments, soft relines, and repairs) provided within three months of the seat date of the cast metal partial denture, is considered part of the partial denture procedure and is not paid separately.

(iii) Replacement of a cast metal framework partial denture is covered on a case-by-case basis and only when the replacement occurs at least five years from the seat date of the partial denture being replaced. The replacement denture must be prior authorized and meet department coverage criteria listed in (d)(iv) of this subsection.

(iv) Department authorization and payment for cast metal framework partial dentures is based on the following criteria:

(A) The remaining teeth in the arch must have a stable periodontal diagnosis and prognosis;

(B) The client has established caries control;

(C) All restorative and periodontal procedures must be completed before the request for prior authorization is submitted;

(D) ((There are fewer than eight posterior teeth in occlusion)) Four or more posterior teeth, excluding second and third molars, per arch are missing. The department does not pay for replacement of second or third molars;

(E) There is a minimum of four stable teeth remaining per arch;

(F) There is a five-year prognosis, based on the sole discretion of the department, for retention of all remaining teeth.

(v) The department may consider resin partial dentures as an alternative if the criteria for cast metal framework partial dentures listed in (d)(iv) of this subsection do not meet department specifications.

(e) Requires the provider to bill for covered removable prosthetic procedures only after the seating of the prosthesis, not at the impression date. Refer to (2)(c) and (d) of this subsection if the removable prostheses is not delivered and inserted.

(f) Requires a provider to submit the following with prior authorization requests for removable prosthetics for a client residing in a nursing home, group home, or other facility:

(i) The client's medical diagnosis and prognosis;

(ii) The attending physician's request for prosthetic services;

(iii) The attending dentist's or denturist's statement documenting medical necessity;

(iv) A written and signed consent from the client's legal guardian when a guardian has been appointed; and

(v) A completed copy of the Denture/Partial Appliance Request for Skilled Nursing Facility Client form (DSHS 13-788) available from the department.

(g) Limits removable partial dentures to resin based partial dentures for all clients who reside in one of the facilities listed in (f) of this subsection. The department may consider cast metal partial dentures if the criteria in (d) of this subsection are met.

(h) Requires a provider to deliver services and procedures that are of acceptable quality to the department. The department may recoup payment for services that are deter-

mined to be below the standard of care or of an unacceptable product quality.

(2) **Other services for removable prosthetics.** The department covers:

- (a) Repairs to complete ((and partial)) dentures;
- (b) A laboratory reline or rebase to a complete or cast metal partial denture, once in a three-year period when performed at least six months after the seat (placement) date; and
- (c) Laboratory fees, subject to all of the following:

(i) The department does not pay laboratory and professional fees for complete and partial dentures, except as stated in (ii) of this subsection;

(ii) The department may pay part of billed laboratory fees when the provider has obtained prior authorization from the department, and:

(A) At the time of delivery of the prosthesis, the patient is no longer an eligible medical assistance client (see also WAC 388-535-1280(3));

- (B) The client moves from the state; or
- (C) The client dies.

(iii) A provider must submit copies of laboratory prescriptions and receipts or invoices for each claim when billing for laboratory fees.

AMENDATORY SECTION (Amending WSR 07-06-041, filed 3/1/07, effective 4/1/07)

WAC 388-535-1267 Covered dental-related services for clients age twenty-one and older—Oral and maxillofacial surgery services. The department covers oral and maxillofacial surgery services only as listed in this section for clients age twenty-one and older (for dental-related services provided to clients eligible under the GA-U or ADATSA program, see WAC 388-535-1065).

(1) **Oral and maxillofacial surgery services.** The department:

(a) Requires enrolled dental providers who do not meet the conditions in WAC 388-535-1070(3) to bill claims for services that are listed in this subsection using only the current dental terminology (CDT) codes.

(b) Requires ((enrolled providers ())) oral and maxillofacial surgeons(())) who meet the conditions in WAC 388-535-1070(3) to bill claims using current procedural terminology (CPT) codes unless the procedure is specifically listed in the department's current published billing instructions as a CDT covered code (e.g., extractions).

(c) Does not cover oral surgery services described in WAC 388-535-1267 that are performed in a hospital operating room or ambulatory surgery center.

(d) Requires the client's record to include supporting documentation for each type of extraction or any other surgical procedure billed to the department. The documentation must include:

- (i) An appropriate consent form signed by the client or the client's legal representative;
- (ii) Appropriate radiographs;
- (iii) Medical justification with diagnosis;
- (iv) Client's blood pressure, when appropriate;
- (v) A surgical narrative;
- (vi) A copy of the post-operative instructions; and

(vii) A copy of all pre- and post-operative prescriptions.

(e) Covers routine and surgical extractions.

(f) Covers debridement of a granuloma or cyst that is five millimeters or greater in diameter. The department includes debridement of a granuloma or cyst that is less than five millimeters as part of the global fee for the extraction.

(g) Covers biopsy, as follows:

(i) Biopsy of soft oral tissue ((or brush biopsy do)) does not require prior authorization; and

(ii) All biopsy reports must be kept in the client's record.

(h) ((Covers alveoplasty only when three or more teeth are extracted per arch.

((i))) Covers surgical excision of soft tissue lesions only on a case-by-case basis and when prior authorized.

((j)) Covers only the following excisions of bone tissue in conjunction with placement of immediate, complete, or partial dentures when prior authorized:

(i) Removal of lateral exostosis;

(ii) Removal of torus palatinus or torus mandibularis; and

(iii) Surgical reduction of soft tissue or osseous tuberosity.))

(2) **Surgical incision-related services.** The department covers ((the following surgical incision related services:

((a))) uncomplicated intraoral and extraoral soft tissue incision and drainage of abscess. The department does not cover this service when combined with an extraction or root canal treatment. Documentation supporting medical necessity must be in the client's record((and

((b) Removal of foreign body from mucosa, skin, or subcutaneous alveolar tissue when prior authorized. Documentation supporting medical necessity must be in the client's record)).

AMENDATORY SECTION (Amending WSR 07-06-041, filed 3/1/07, effective 4/1/07)

WAC 388-535-1269 Covered dental-related services for clients age twenty-one and older—Adjunctive general services. The department covers dental-related adjunctive general services only as listed in this section for clients age twenty-one and older (for dental-related services provided to clients eligible under the GA-U or ADATSA program, see WAC 388-535-1065).

(1) **Adjunctive general services.** The department:

(a) Covers palliative (emergency) treatment, not to include pulpal debridement, for treatment of dental pain, limited to once per day, per client, as follows:

(i) The treatment must occur during limited evaluation appointments;

(ii) A comprehensive description of diagnosis and services provided must be documented in the client's record; and

(iii) Appropriate radiographs must be in the client's record to support medical necessity for the treatment.

(b) Covers local anesthesia and regional blocks as part of the global fee for any procedure being provided to clients.

(c) Covers office based oral or parenteral sedation:

(i) For services listed as covered in WAC 388-535-1267;

(ii) For all current published current procedural terminology (CPT) dental codes;

(iii) When the provider's current valid anesthesia permit is on file with the department; and
 (iv) For clients of the division of developmental disabilities according to WAC 388-535-1099.

(d) Covers office based general anesthesia for:

(i) Extraction of three or more teeth;

(ii) ~~((Services listed as covered in WAC 388-535-1267~~

~~(1)(h) and (j);~~

~~(iii) For all current published CPT dental codes;~~

~~(iv)) When the provider's current valid anesthesia permit is on file with the department; and~~

~~((v))) For clients of the division of developmental disabilities, according to WAC 388-535-1099.~~

(e) Covers inhalation of nitrous oxide, once per day.

(f) Requires providers of oral or parenteral conscious sedation, or general anesthesia to meet:

(i) The prevailing standard of care;

(ii) The provider's professional organizational guidelines;

(iii) The requirements in chapter 246-817 WAC; and

(iv) Relevant department of health (DOH) medical, dental, and nursing anesthesia regulations;

(g) Pays for anesthesia services according to WAC 388-535-1350;

(h) Covers professional consultation/diagnostic services as follows:

(i) A dentist or a physician other than the practitioner providing treatment must provide the services; and

(ii) A client must be referred by the department for the services to be covered.

(2) **Nonemergency dental services.** The department covers nonemergency dental services performed in a hospital or ambulatory surgical center for clients of the division of developmental disabilities according to WAC 388-535-1099.

(3) **Professional visits.** The department covers:

(a) Up to two house/extended care facility calls (visits) per facility, per provider. The department limits payment to two facilities per day, per provider.

(b) One hospital call (visit), including emergency care, per day, per provider, per client. The department does not pay for additional hospital calls if billed for the same client on the same day.

(c) Emergency office visits after regularly scheduled hours. The department limits payment to one emergency visit per day, per provider.

(4) **Drugs and/or medicaments (pharmaceuticals).**

The department covers drugs and/or medicaments (pharmaceuticals) only when used with parenteral conscious sedation, deep sedation, or general anesthesia. The department's dental program does not pay for oral sedation medications.

(5) **Miscellaneous services.** The department covers:

(a) Behavior management that requires the assistance of one additional dental staff other than the dentist only for clients of the division of developmental disabilities((~~z~~)) (see WAC 388-535-1099). Documentation supporting the need for the behavior management must be in the client's record.

(b) Treatment of post-surgical complications (e.g., dry socket). Documentation supporting the medical necessity for the service must be in the client's record.

AMENDATORY SECTION (Amending WSR 07-06-041, filed 3/1/07, effective 4/1/07)

WAC 388-535-1271 Dental-related services not covered for clients age twenty-one and older. (1) The department does not cover the following for clients age twenty-one and older (see WAC 388-535-1065 for dental-related services for clients eligible under the GA-U or ADATSA program):

(a) The dental-related services and procedures described in subsection (2) of this section;

(b) Any service specifically excluded by statute;

(c) More costly services when less costly, equally effective services as determined by the department are available; and

(d) Services, procedures, treatment, devices, drugs, or application of associated services:

(i) Which the department or the Centers for Medicare and Medicaid Services (CMS) considers investigative or experimental on the date the services were provided.

(ii) That are not listed as covered in one or both of the following:

(A) Washington Administrative Code (WAC).

(B) The department's published documents (e.g., billing instructions).

(2) The department does not cover dental-related services listed under the following categories of service for clients age twenty-one and older:

(a) **Diagnostic services.** The department does not cover:

(i) Detailed and extensive oral evaluations or reevaluations;

(ii) Comprehensive periodontal evaluations;

(iii) Extraoral or occlusal intraoral radiographs;

(iv) Posterior-anterior or lateral skull and facial bone survey films;

(v) Sialography;

(vi) Any temporomandibular joint films;

(vii) Tomographic survey;

(viii) Cephalometric films;

(ix) Oral/facial photographic images;

(x) Viral cultures, genetic testing, caries susceptibility tests, adjunctive prediagnostic tests, or pulp vitality tests; or

(xi) Diagnostic casts.

(b) **Preventive services.** The department does not cover:

(i) Nutritional counseling for control of dental disease;

(ii) Tobacco counseling for the control and prevention of oral disease;

(iii) Oral hygiene instructions (included as part of the global fee for oral prophylaxis);

(iv) Removable space maintainers of any type;

(v) Sealants;

(vi) Space maintainers of any type or recentration of space maintainers; or

(vii) Fluoride trays of any type.

(c) **Restorative services.** The department does not cover:

(i) Restorative/operative procedures performed in a hospital operating room or ambulatory surgical center for clients age twenty-one and older. For clients of the division of developmental disabilities, see WAC 388-535-1099;

(ii) Restorations for wear on any surface of any tooth without evidence of decay through the enamel or on the root surface;

(iii) Gold foil restorations;

((iii))) (iv) Metallic, resin-based composite, or porcelain/ceramic inlay/onlay restorations;

((iv))) (v) Prefabricated ((resin crowns)) restorations;

((v))) (vi) Temporary or provisional crowns (including ion crowns);

((vi))) (vii) Any type of permanent or temporary crown.

For clients of the division of developmental disabilities see WAC 388-535-1099;

((viii))) (viii) Recementation of any crown, inlay/onlay, or any other type of indirect restoration;

((ix))) (ix) Sedative fillings;

((x))) (x) Preventive ((restorative resins)) restorations;

((xi))) (xi) Any type of core buildup, cast post and core, or prefabricated post and core;

((xii))) (xii) Labial veneer resin or porcelain laminate restoration;

((xiii))) (xiii) Any type of coping;

((xiv))) (xiv) Crown repairs; or

((xv))) (xv) Polishing or recontouring restorations or overhang removal for any type of restoration.

(d) **Endodontic services.** The department does not cover:

(i) Indirect or direct pulp caps;

(ii) Endodontic therapy on any primary teeth for clients age twenty-one and older;

(iii) Endodontic therapy on permanent bicuspids or molar teeth;

(iv) Endodontic retreatment of permanent anterior, bicuspid, or molar teeth;

(v) Any apexification/recalcification procedures;

((vi))) (vi) Any apicoectomy/periradicular service; or

((vii))) (vii) Any surgical endodontic procedures including, but not limited to, retrograde fillings, root amputation, reimplantation, and hemisections.

(e) **Periodontic services.** The department does not cover:

(i) Surgical periodontal services that include, but are not limited to:

(A) Gingival or apical flap procedures;

(B) Clinical crown lengthening;

(C) Any type of osseous surgery;

(D) Bone or soft tissue grafts;

(E) Biological material to aid in soft and osseous tissue regeneration;

(F) Guided tissue regeneration;

(G) Pedicle, free soft tissue, apical positioning, subepithelial connective tissue, soft tissue allograft, combined connective tissue and double pedicle, or any other soft tissue or osseous grafts; or

(H) Distal or proximal wedge procedures; or

(ii) Nonsurgical periodontal services, including but not limited to:

(A) Intracoronal or extracoronal provisional splinting;

(B) Full mouth debridement;

(C) Localized delivery of chemotherapeutic agents; or

(D) Any other type of nonsurgical periodontal service.

(f) **Prosthodontics (removable).** The department does not cover any type of:

(i) Removable unilateral partial dentures;

(ii) Adjustments to any removable prosthesis;

(iii) Repairs to any partial denture;

(iv) Flexible base partial dentures;

((v))) (v) Replacement of second or third molars for any removable prosthesis;

((vi))) (vi) Any type of permanent soft reline (e.g., moloplast);

((vii))) (vii) Chairside complete or partial denture relines;

((viii))) (viii) Any interim complete or partial denture;

((ix))) (ix) Precision attachments; or

((x))) (x) Replacement of replaceable parts for semi-precision or precision attachments.

(g) **Oral and maxillofacial prosthetic services.** The department does not cover any type of oral or facial prosthesis other than those listed in WAC 388-535-1266.

(h) **Implant services.** The department does not cover:

(i) Any implant procedures, including, but not limited to, any tooth implant abutment (e.g., periosteal implant, eposteal implant, and transosteal implant), abutments or implant supported crown, abutment supported retainer, and implant supported retainer;

(ii) Any maintenance or repairs to procedures listed in (h)(i) of this subsection; or

(iii) The removal of any implant as described in (h)(i) of this subsection.

(i) **Prosthodontics (fixed).** The department does not cover any type of:

(i) Fixed partial denture pontic;

(ii) Fixed partial denture retainer;

(iii) Precision attachment, stress breaker, connector bar, coping, or cast post; or

(iv) Other fixed attachment or prosthesis.

(j) **Oral and maxillofacial surgery.** The department does not cover:

(i) Any nonemergency oral surgery performed in a hospital or ambulatory surgical center for current dental terminology (CDT) procedures;

(ii) Brush biopsy;

(iii) Any type of alveoplasty;

(iv) Any type of excisions of bone tissue including, but not limited to:

(A) Removal of lateral exostosis;

(B) Removal of torus palatinus or torus mandibularis; and

(C) Surgical reduction of osseous tuberosity.

((v))) (v) Any type of surgical reduction of fibrous tuberosity;

((vi))) (vi) Removal of foreign body from mucosa, skin, or subcutaneous tissue;

((vii))) (vii) Vestibuloplasty;

((viii))) (viii) Frenuloplasty/frenulectomy;

((ix))) (ix) Any oral surgery service not listed in WAC 388-535-1267;

((x))) (x) Any oral surgery service that is not listed in the department's list of covered current procedural terminology (CPT) codes published in the department's current rules or billing instructions;

((vii)) (xi) Any type of occlusal orthotic splint or device, bruxing or grinding splint or device, temporomandibular joint splint or device, or sleep apnea splint or device; or
 ((viii)) (xii) Any type of orthodontic service or appliance.

(k) **Adjunctive general services.** The department does not cover:

(i) Anesthesia to include:

- (A) Local anesthesia as a separate procedure;
- (B) Regional block anesthesia as a separate procedure;
- (C) Trigeminal division block anesthesia as a separate procedure;
- (D) Analgesia or anxiolysis as a separate procedure except for inhalation of nitrous oxide;
- (E) Medication for oral sedation, or therapeutic drug injections, including antibiotic or injection of sedative; or
- (F) Application of any type of desensitizing medicament or resin.

(ii) Other general services including, but not limited to:

- (A) Fabrication of athletic mouthguard, occlusal guard, or nightguard;
- (B) Occlusion analysis;
- (C) Occlusal adjustment, tooth or restoration adjustment or smoothing, or odontoplasties;
- (D) Enamel microabrasion;
- (E) Dental supplies, including but not limited to, toothbrushes, toothpaste, floss, and other take home items;
- (F) Dentist's or dental hygienist's time writing or calling in prescriptions;
- (G) Dentist's or dental hygienist's time consulting with clients on the phone;
- (H) Educational supplies;
- (I) Nonmedical equipment or supplies;
- (J) Personal comfort items or services;
- (K) Provider mileage or travel costs;
- (L) Missed or late appointment fees;
- (M) Service charges of any type, including fees to create or copy charts;
- (N) Office supplies used in conjunction with an office visit; or
- (O) Teeth whitening services or bleaching, or materials used in whitening or bleaching.

388-845-0055, 388-845-0065, 388-845-0100, 388-845-0111, 388-845-0120, 388-845-0200, 388-845-0500, 388-845-0505, 388-845-0900, 388-845-0910, 388-845-1000, 388-845-1015, 388-845-1110, 388-845-1150, 388-845-1200, 388-845-1300, 388-845-1400, 388-845-1600, 388-845-1605, 388-845-1620, 388-845-1650, 388-845-1700, 388-845-1800, 388-845-1900, 388-845-2000, 388-845-2005, 388-845-2100, 388-845-2200, 388-845-3000, 388-845-3085, and 388-845-4005.

Hearing Location(s): Office Building 2, Auditorium DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at: <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>

or by calling (360) 664-6094), on June 8, 2010, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 9, 2010.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSH-SRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 8, 2010.

Assistance for Persons with Disabilities: Contact Jennifer Johnson, DSHS rules consultant, by May 25, 2010, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johns14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule making is necessary to implement chapter 194, Laws of 2009, and the Centers for Medicare and Medicaid Services approval to begin the new HCBS waiver May 1, 2009. A CR-101 was filed as WSR 10-01-204 on April 22, 2010.

Reasons Supporting Proposal: This proposed rule making is necessary to implement chapter 194, Laws of 2009, and the Centers for Medicare and Medicaid Services approval to begin the new HCBS waiver May 1, 2009. A CR-101 was filed as WSR 08-19-112 on September 17, 2008.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120, chapter 194, Laws of 2009; and section 205 (1)(i), chapter 329, Laws of 2008.

Statute Being Implemented: RCW 71A.12.030, RCW 71A.12.120, chapter 194, Laws of 2009; and section 205 (1)(i) chapter 329, Laws of 2008.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Meredith Kelly, 640 Woodland Square Loop S.E., (360) 725-3524; Implementation: Christie Seligman, 640 Woodland Square Loop S.E., (360) 725-3448; and Enforcement: Don Clintsman, 640 Woodland Square Loop S.E., (360) 725-3421.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.025(3) states that a small business economic impact statement is not required for several other types of rules including: (1) Emergency rules; (2) internal governmental rules; (3) rules adopting or incorporating, by references without material change, any of the following: Federal statutes or regulations, Washington state statutes, rules of other Washington state agen-

WSR 10-09-100
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services)
 [Filed April 21, 2010, 9:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-19-112.

Title of Rule and Other Identifying Information: The department is amending the following rules in order to implement the children's intensive in-home behavioral supports: WAC 388-845-0001, 388-845-0015, 388-845-0020, 388-845-0030, 388-845-0041, 388-845-0045, 388-845-0050,

cies, shoreline master programs unless they govern shorelines of state-wide significance or are referenced by state law or national consensus codes that establish generally accepted industry standards.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(ii) rules with content dictated by statute are not required to submit a cost-benefit analysis. This rule was directed chapter 194, Laws of 2009, and the Centers for Medicare and Medicaid Services approval to begin the new HCBS waiver.

April 15, 2010
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-20-033, filed 9/22/08, effective 10/23/08)

WAC 388-845-0001 Definitions. "ADSA" means the aging and disability services administration, an administration within the department of social and health services.

"Aggregate services" means a combination of services subject to the dollar limitations in the Basic and Basic Plus waivers.

"CARE" means the comprehensive assessment and reporting evaluation.

"Client or person" means a person who has a developmental disability as defined in RCW 71A.10.020(3) and has been determined eligible to receive services by the division under chapter 71A.16 RCW.

"DDD" means the division of developmental disabilities, a division within the aging and disability services administration of the department of social and health services.

"DDD assessment" refers to the standardized assessment tool as defined in chapter 388-828 WAC, used by DDD to measure the support needs of persons with developmental disabilities.

"Department" means the department of social and health services.

"EPSDT" means early and periodic screening, diagnosis, and treatment, Medicaid's child health component providing a mandatory and comprehensive set of benefits and services for children up to age twenty one.

"Employment/day program services" means community access, person-to-person, prevocational services or supported employment services subject to the dollar limitations in the Basic and Basic Plus waivers.

"Evidence based treatment" means the use of physical, mental and behavioral health interventions for which systematic, empirical research has provided evidence of statistically significant effectiveness as treatments for specific conditions. Alternate terms with the same meaning are evidence-based practice (EBP) and empirically-supported treatment (EST).

"Family" means relatives who live in the same home with the eligible client. Relatives include spouse((s)) or registered domestic partner; natural, adoptive or step parent((s)); grandparent((s)); ((brother; sister; stepbrother; stepsister)) child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"Family home" means the residence where you and your relatives live.

"Gainful employment" means employment that reflects achievement of or progress towards a living wage.

"HCBS waivers" means home and community based services waivers.

"Home" means ((your)) present or intended place of residence.

"ICF/MR" means an intermediate care facility for the mentally retarded.

"Individual support plan (ISP)" is a document that authorizes and identifies the DDD paid services to meet a client's assessed needs.

"Integrated settings" mean typical community settings not designed specifically for individuals with disabilities in which the majority of persons employed and participating are individuals without disabilities.

"Legal representative" means a parent of a person who is under eighteen years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of limited guardianship, a person's attorney at law, a person's attorney in fact, or any other person who is authorized by law to act for another person.

"Living wage" means the amount of earned wages needed to enable an individual to meet or exceed his/her living expenses.

"Necessary supplemental accommodation representative" means an individual who receives copies of DDD planned action notices (PANs) and other department correspondence in order to help a client understand the documents and exercise the client's rights. A necessary supplemental accommodation representative is identified by a client of DDD when the client does not have a legal guardian and the client is requesting or receiving DDD services.

((Plan of care (POC) means the primary tool DDD uses to determine and document your needs and to identify services to meet those needs until the DDD assessment is administered and the individual support plan is developed.))

"Providers" means an individual or agency who meets the provider qualifications and is contracted with ADSA to provide services to you.

"Respite assessment" means an algorithm within the DDD assessment that determines the number of hours of respite care you may receive per year if you are enrolled in the Basic, Basic Plus, Children's Intensive In-Home Behavioral Support, or Core waiver.

"SSI" means Supplemental Security Income, an assistance program administered by the federal Social Security Administration for blind, disabled and aged individuals.

"SSP" means ((state supplementary payment, a benefit administered by the department intended to augment an individual's SSI)) a state-paid cash assistance program for certain clients of the division of developmental disabilities.

"State funded services" means services that are funded entirely with state dollars.

"You/your" means the client.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0015 What HCBS waivers are provided by the division of developmental disabilities

(DDD)? DDD provides services through ((four)) five HCBS waivers:

- (1) Basic waiver;
- (2) Basic Plus waiver;
- (3) ((CORE)) Core waiver; ((and))
 - (4) Community Protection waiver; and
 - (5) Children's Intensive In-Home Behavioral Support waiver (CIIBS).

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0020 When were ((these four)) the HCBS waivers effective? ((The four DDD HCBS)) Basic, Basic Plus, Core and Community Protection waivers were effective April 1, 2004. Children's Intensive In-Home Behavioral Support waiver was effective May 1, 2009.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0030 Do I meet criteria for HCBS waiver-funded services? You meet criteria for DDD HCBS waiver-funded services if you meet all of the following:

- (1) You have been determined eligible for DDD services per RCW 71A.10.020(3).
- (2) You have been determined to meet ICF/MR level of care per WAC 388-845-0070, 388-828-3060 and 388-828-3080.
- (3) You meet disability criteria established in the Social Security Act.
- (4) You meet financial eligibility requirements as defined in WAC 388-515-1510.
- (5) You choose to receive services in the community rather than in an ICF/MR facility.
- (6) You have a need for waiver services as identified in your plan of care or individual support plan.
- (7) You are not residing in hospital, jail, prison, nursing facility, ICF/MR, or other institution.

(8) Additionally, for the Children's Intensive In-Home Behavioral Support (CIIBS) waiver-funded services:

(a) You are age eight or older and under the age of eighteen for initial enrollment and under age twenty-one for continued enrollment;

(b) You have been determined to meet CIIBS program eligibility per chapter 388-828 WAC prior to initial enrollment only;

(c) You live with your family; and

(d) Your parent/guardian(s) and primary caregiver(s), if other than parent/guardian(s), have signed the participation agreement.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0041 What is DDD's responsibility to provide my services under the DDD HCBS waivers administered by DDD? If you are enrolled in an HCBS waiver administered by DDD, DDD must meet your assessed needs for health and welfare.

(1) DDD must address your assessed health and welfare needs in your ((plan of care or the)) individual support plan, as specified in WAC 388-845-3055.

(2) You have access to DDD paid services that are provided within the scope of your waiver, subject to the limitations in WAC 388-845-0110 and 388-845-0115.

(3) DDD will provide waiver services you need and qualify for within your waiver.

(4) DDD will not deny or limit your waiver services based on a lack of funding.

AMENDATORY SECTION (Amending WSR 08-20-033, filed 9/22/08, effective 10/23/08)

WAC 388-845-0045 When there is capacity to add people to a waiver, how does DDD determine who will be enrolled? When there is capacity on a waiver and available funding for new waiver participants, DDD may enroll people from the statewide data base in a waiver based on the following priority considerations:

(1) First priority will be given to current waiver participants assessed to require a different waiver because their identified health and welfare needs have increased and these needs cannot be met within the scope of their current waiver.

(2) DDD may also consider any of the following populations in any order:

(a) Priority populations as identified and funded by the legislature.

(b) Persons DDD has determined to be in immediate risk of ICF/MR admission due to unmet health and welfare needs.

(c) Persons identified as a risk to the safety of the community.

(d) Persons currently receiving services through state-only funds.

(e) Persons on an HCBS waiver that provides services in excess of what is needed to meet their identified health and welfare needs.

(f) Persons who were previously on an HCBS waiver since April 2004 and lost waiver eligibility per WAC ((388-845-0060(9))) 388-845-0060 (1)(i).

(3) For the Basic waiver only, DDD may consider persons who need the waiver services available in the Basic waiver to maintain them in their family's home or in their own home.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0050 How do I request to be enrolled in a waiver? (1) You can contact DDD and request to be enrolled in a waiver or to enroll in a different waiver at any time.

(2) If you are assessed as meeting ICF/MR level of care as defined in WAC 388-845-0070 and chapter 388-828 WAC, your request for waiver enrollment will be documented by DDD in a statewide data base.

(3) For the Children's Intensive In-Home Behavioral Support (CIIBS) waiver only, if you are assessed as meeting both ICF/MR level of care and CIIBS eligibility as defined in WAC 388-845-0030 and chapter 388-828 WAC, your

request for waiver enrollment will be documented by DDD in a statewide database.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0055 How do I remain eligible for the waiver? Once you are enrolled in a DDD HCBS waiver, you can remain eligible if you continue to meet eligibility criteria in WAC 388-845-0030((-)), and:

(1) ((~~DDD~~)) You complete((s)) a reassessment with DDD at least once every twelve months to determine if you continue to meet all of these eligibility requirements; and

(2) You must either receive a waiver service at least once in every thirty consecutive days, as specified in WAC 388-513-1320 (3)(b), or your health and welfare needs require monthly monitoring, which will be documented in your client record; and

(3) ((~~You~~)) You complete an in-person DDD assessment/reassessment interview ((must be)) administered ((in person and)) in your home((-See)) per WAC 388-828-1520.

(4) In addition, for the Children's Intensive In-Home Behavioral Supports waiver, you must:

(a) Be under age twenty-one;

(b) Live with your family; and

(c) Have an annual participation agreement signed by your parent/guardian(s) and primary caregiver(s), if other than parent/guardian(s).

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0065 What happens if I am terminated or choose to disenroll from a waiver? If you are terminated from a waiver or choose to disenroll from a waiver, DDD will notify you.

(1) DDD cannot guarantee continuation of your current services, including medicaid eligibility.

(2) Your eligibility for nonwaiver state-only funded DDD services is based upon availability of funding and program eligibility for a particular service.

(3) If you are terminated from the CIIBS waiver due to turning age twenty-one, DDD will assist with transition planning at least twelve months prior to your twenty-first birthday.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0100 What determines which waiver I am assigned to? If there is capacity, DDD will assign you to the waiver with the minimum service package necessary to meet your health and welfare needs, based on its evaluation of your DDD assessment as described in chapter 388-828 WAC and the following criteria:

(1) For the Basic waiver:

(a) You must live with your family or in your own home;

(b) Your family/caregiver's ability to continue caring for you can be maintained with the addition of services provided in the Basic waiver; and

(c) You do not need out-of-home residential services.

(2) For the Basic Plus waiver, your health and welfare needs exceed the amount allowed in the Basic waiver or require a service that is not contained in the Basic waiver; and

(a) You are at high risk of out-of-home placement or loss of your current living situation; or

(b) You require out-of-home placement and your health and welfare needs can be met in an adult family home or adult residential care facility.

(3) For the Core waiver:

(a) You are at immediate risk of out-of-home placement; and/or

(b) You have an identified health and welfare need for residential services that cannot be met by the Basic Plus waiver.

(4) For the Community Protection waiver, refer to WAC 388-845-0105 and chapter 388-831 WAC.

(5) For the Children's Intensive In-Home Behavioral Support waiver, you:

(a) Are age eight or older and under age eighteen;

(b) Live with your family;

(c) Are assessed at high or severe risk of out of home placement due to challenging behavior per chapter 388-828 WAC; and

(d) You have a signed participation agreement from your parent/guardian(s) and primary caregiver(s), if other than parent/guardian(s).

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0111 Are there limitations regarding who can provide services? The following limitations apply to providers for waiver services:

(1) Your spouse ((~~cannot~~)) must not be your paid provider for any waiver service.

(2) If you are under age eighteen, your natural, step, or adoptive parent ((~~cannot~~)) must not be your paid provider for any waiver service.

(3) If you are age eighteen or older, your natural, step, or adoptive parent ((~~cannot~~)) must not be your paid provider for any waiver service with the exception of:

(a) Personal care;

(b) Transportation to and from a waiver service;

(c) Residential habilitation services per WAC 388-845-1510 if your parent is certified as a residential agency per chapter 388-101 WAC; or

(d) Respite care if you and the parent who provides the respite care live in separate homes.

(4) If you receive CIIBS waiver services, your legal representative or family member per WAC 388-845-0001 must not be your paid provider for any waiver service with the exception of:

(i) Personal care;

(ii) Transportation to and from a waiver service; and

(iii) Respite per WAC 388-845-1605 through 388-845-1620.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0120 Will I continue to receive state supplementary payments (SSP) if I am on the waiver?
Your participation in one of the ((new)) DDD HCBS waivers does not affect your continued receipt of state supplemental payment from DDD.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0200 What waiver services are available to me? Each of the ((four)) DDD HCBS waivers has a different scope of service and your ((plan of care or)) individual support plan defines the waiver services available to you.

NEW SECTION

WAC 388-845-0225 Children's intensive in-home behavioral support (CIIBS) waiver services.

CIIBS Waiver	Services	Yearly Limit
	<ul style="list-style-type: none"> • Behavior management and consultation • Staff/family consultation and training • Environmental accessibility adaptations • Occupational therapy • Physical therapy • Sexual deviancy evaluation • Nurse delegation • Specialized medical equipment/supplies • Specialized psychiatric services • Speech, hearing and language services • Transportation • Assistive technology • Therapeutic equipment and supplies • Specialized nutrition and clothing • Vehicle modifications 	Determined by the individual support plan. Total cost of waiver services cannot exceed the average cost of \$4,000 per month per participant.

CIIBS Waiver	Services	Yearly Limit
	Personal care	Limits determined by the DDD assessment. Costs are included in the total average cost of \$4000 per month per participant for all waiver services.
	Respite care	Limits determined by the DDD assessment. Costs are included in the total average cost of \$4000 per month per participant for all waiver services.

NEW SECTION

WAC 388-845-0415 What is assistive technology? Assistive technology consists of items, equipment, or product systems used to increase, maintain, or improve functional capabilities of waiver participants, as well as services to directly assist the participant and caregivers to select, acquire, and use the technology. Assistive technology is available in the CIIBS waiver, and includes the following:

- (1) The evaluation of the needs of the waiver participant, including a functional evaluation of the child in the child's customary environment;
- (2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;
- (3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;
- (4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (5) Training or technical assistance for the participant and/or if appropriate, the child's family; and
- (6) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of children with disabilities.

NEW SECTION

WAC 388-845-0420 Who is a qualified provider of assistive technology? The provider of assistive technology must be an assistive technology vendor contracted with DDD or one of the following professionals contracted with DDD and duly licensed, registered or certified to provide this service:

- (1) Occupational therapist;
- (2) Physical therapist;
- (3) Speech and language pathologist;
- (4) Certified music therapist;
- (5) Certified recreation therapist; or
- (6) Audiologist.

NEW SECTION

WAC 388-845-0425 Are there limits to the assistive technology I can receive? (1) Providers of assistive technology services must be certified, registered or licensed therapists as required by law and contracted with DDD for the therapy they are providing.

(2) Vendors of assistive technology must maintain a business license required by law and be contracted with DDD to provide this service.

(3) Assistive technology may be authorized as a waiver service only after you have accessed what is available to you under medicaid, including EPSDT, and any other private health insurance plan.

(4) The department does not pay for technology determined by DSHS to be experimental.

(5) The department and the treating professional determine the need for the technology.

(6) The department reserves the right to require a second opinion from a department-selected provider.

(7) The department will require evidence that you have accessed your full benefits through medicaid and private insurance before authorizing this waiver service.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0500 What is behavior management and consultation? (1) Behavior management and consultation may be provided to persons on any of the ~~((four))~~ DDD HCBS waivers and includes the development and implementation of programs designed to support waiver participants using:

(a) Strategies for effectively relating to caregivers and other people in the waiver participant's life; and

(b) Direct interventions with the person to decrease aggressive, destructive, and sexually inappropriate or other behaviors that compromise their ability to remain in the community (i.e., training, specialized cognitive counseling, development and implementation of a positive behavior support plan).

(2) Behavior management and consultation may also be provided as a mental health stabilization service in accordance with WAC 388-845-1150 through 388-845-1160.

NEW SECTION

WAC 388-845-0501 What is included in behavior management and consultation for the children's intensive in-home behavioral support (CIIBS) waiver? (1) In addition to the definition in WAC 388-845-0500, behavior management and consultation in the CIIBS waiver must include the following characteristics:

(a) Treatment must be evidence based, driven by individual outcome data, and consistent with DDD's positive behavior support guidelines as outlined in contract;

(b) The following written components will be developed in partnership with the child and family by a behavior specialist as defined in WAC 388-845-0506:

(i) Functional behavioral assessment; and

(ii) Positive behavior support plan based on functional behavioral assessment.

(c) Treatment goals must be objective and measurable. The goals must relate to an increase in skill development and a resulting decrease in challenging behaviors that impede quality of life for the child and family; and

(d) Behavioral support strategies will be individualized and coordinated across all environments, such as home, school, and community, in order to promote a consistent approach among all involved persons.

(2) Behavior management and consultation in the CIIBS waiver may also include the following components:

(a) Positive behavior support plans may be implemented by a behavioral technician as defined in WAC 388-845-0506 and include 1:1 behavior interventions and skill development activity.

(b) Positive behavior support plans may include recommendations by a music and/or recreation therapist, as defined in WAC 388-845-0506.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0505 Who is a qualified provider of behavior management and consultation? Under the Basic, Basic Plus, Core, and Community Protection waivers, the provider of behavior management and consultation must be one of the following professionals contracted with DDD and duly licensed, registered or certified to provide this service:

(1) Marriage and family therapist;

(2) Mental health counselor;

(3) Psychologist;

(4) Sex offender treatment provider;

(5) Social worker;

(6) Registered nurse (RN) or licensed practical nurse (LPN);

(7) Psychiatrist;

(8) Psychiatric advanced registered nurse practitioner (ARNP);

(9) Physician assistant working under the supervision of a psychiatrist;

(10) ~~((Registered counselor))~~ Counselors registered or certified in accordance with the requirements of chapter 18.19 RCW; or

(11) Polygrapher.

NEW SECTION

WAC 388-845-0506 Who is a qualified provider of behavior management and consultation for the children's intensive in-home behavioral supports (CIIBS) waiver? Under the CIIBS waiver, providers of behavior management and consultation must be contracted with DDD to provide

CIIBS intensive services as one of the following four provider types:

- (1) Behavior specialist;
- (2) Behavior technician;
- (3) Certified music therapist; and/or
- (4) Certified recreation therapist.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0900 What are environmental accessibility adaptations? (1) Environmental accessibility adaptations are available in all of the DDD HCBS waivers and provide the physical adaptations to the home required by the individual's plan of care or individual support plan needed to:

- (a) Ensure the health, welfare and safety of the individual; or
- (b) Enable the individual who would otherwise require institutionalization to function with greater independence in the home.

(2) Environmental accessibility adaptations may include the installation of ramps and grab bars, widening of doorways, modification of bathroom facilities, or installing specialized electrical and/or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.

(3) For the CIIBS waiver only, adaptations include repairs to the home necessary due to property destruction caused by the participant's behavior.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-0910 What limitations apply to environmental accessibility adaptations? The following service limitations apply to environmental accessibility adaptations:

(1) Environmental accessibility adaptations require prior approval by the DDD regional administrator or designee.

(2) With the exception of damage repairs under the CIIBS waiver, environmental accessibility adaptations or improvements to the home are excluded if they are of general utility without direct medical or remedial benefit to the individual, such as carpeting, roof repair, central air conditioning, etc.

(3) Environmental accessibility adaptations cannot add to the total square footage of the home.

(4) The dollar limitations for aggregate services in your Basic or Basic Plus waiver limit the amount of service you may receive.

(5) Damage repairs under the CIIBS waiver are subject to the following restrictions:

(a) Limited to the cost of restoration to the original condition.

(b) Repairs to personal property and normal wear and tear is excluded.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-1000 What are extended state plan services? Extended state plan services refer to physical ther-

apy; occupational therapy; and speech, hearing and language services available to you under medicaid without regard to your waiver status. They are "extended" services when the waiver pays for more services than is provided under the state medicaid plan. These services are available under all ((four)) DDD HCBS waivers.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-1015 Are there limits to the extended state plan services I can receive? (1) Additional therapy may be authorized as a waiver service only after you have accessed what is available to you under medicaid and any other private health insurance plan;

(2) The department does not pay for treatment determined by DSHS to be experimental;

(3) The department and the treating professional determine the need for and amount of service you can receive:

(a) The department reserves the right to require a second opinion from a department-selected provider.

(b) The department will require evidence that you have accessed your full benefits through medicaid, including early and periodic screening, diagnosis, and treatment (EPSDT) for children under the age of twenty-one, and private insurance before authorizing this waiver service.

(4) The dollar limitations for aggregate services in your Basic or Basic Plus waiver limit the amount of service you may receive.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-1110 What are the limits of mental health crisis diversion bed services? (1) Mental health crisis diversion bed services are intermittent and temporary. The duration and amount of services you need to stabilize your crisis is determined by a mental health professional and/or DDD.

(2) These services are available in ((all four HCBS)) the Basic, Basic Plus, Core, and Community Protection waivers administered by DDD as mental health stabilization services in accordance with WAC 388-845-1150 through 388-845-1160.

(3) The costs of mental health crisis diversion bed services do not count toward the dollar limits for aggregate services in the Basic and Basic Plus waivers.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-1150 What are mental health stabilization services? Mental health stabilization services assist persons who are experiencing a mental health crisis. These services are available in ((all four)) the Basic, Basic Plus, Core, and Community Protection waivers to adults determined by mental health professionals or DDD to be at risk of institutionalization in a psychiatric hospital without one of more of the following services:

- (1) Behavior management and consultation;
- (2) ((Skilled nursing services;

- (3)) Specialized psychiatric services; or
- ((4)) (3) Mental health crisis diversion bed services.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 388-845-1170 What is nurse delegation: (1)

Nurse delegation services (chapter 388-101 WAC) are services provided by a registered nurse or a nursing agency to provide training and nursing management for providers who perform delegated nursing tasks. Delegated tasks include administration of noninjectable medications, blood glucose testing, and tube feedings.

(2) Services include the initial visit, additional instruction and supervisory visits.

(3) Clients who receive nurse delegation services must be considered "stable and predictable" by the delegating nurse.

(4) Nurse delegation is available in the CIIBS waiver. This service is available through skilled nursing services (WAC 388-845-1700) in the Basic Plus, Core and Community Protection waivers.

NEW SECTION

WAC 388-845-1175 Who is a qualified provider of nurse delegation? Providers of nurse delegation are registered nurses contracted with DDD to provide this service or employed by a nursing agency contracted with DDD to provide this service.

NEW SECTION

WAC 388-845-1180 Are there limitations to the nurse delegation services that I receive? The following limitations apply to receipt of nurse delegation services:

(1) The department and the treating professional determine the need for and amount of service.

(2) The department reserves the right to require a second opinion by a department selected provider.

(3) The following tasks must not be delegated:

- (a) Injections, other than insulin;
- (b) Central lines;
- (c) Sterile procedures; and
- (d) Tasks that require nursing judgment.

AMENDATORY SECTION (Amending WSR 08-20-033, filed 9/22/08, effective 10/23/08)

WAC 388-845-1200 What are "person-to-person" services? (1) "Person-to-person" services are intended to assist you to achieve the outcome of gainful employment in an integrated setting through a combination of services, which may include:

- (a) Development and implementation of self-directed employment services;
- (b) Development of a person centered employment plan;
- (c) Preparation of an individualized budget; and

(d) Support to work and volunteer in the community, and/or access the generic community resources needed to achieve integration and employment.

(2) These services may be provided in addition to community access, prevocational services, or supported employment.

(3) These services are available in ((all four HCBS)) the Basic, Basic Plus, Core and Community Protection waivers.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-1300 What are personal care services? Personal care services as defined in WAC 388-106-0010 are the provision of assistance with personal care tasks. These services are available in the Basic, Basic Plus, CIIBS and ((CORE)) Core waivers.

AMENDATORY SECTION (Amending WSR 08-20-033, filed 9/22/08, effective 10/23/08)

WAC 388-845-1400 What are prevocational services? (1) Prevocational services occur in a segregated setting and are designed to prepare you for gainful employment in an integrated setting through training and skill development.

(2) Prevocational services are available in ((all four HCBS)) the Basic, Basic Plus, Core and Community Protection waivers.

AMENDATORY SECTION (Amending WSR 08-20-033, filed 9/22/08, effective 10/23/08)

WAC 388-845-1600 What is respite care? Respite care is short-term intermittent relief for persons normally providing care for waiver individuals. This service is available in the Basic, Basic Plus, CIIBS, and ((CORE)) Core waivers.

AMENDATORY SECTION (Amending WSR 08-03-109, filed 1/22/08, effective 2/22/08)

WAC 388-845-1605 Who is eligible to receive respite care? You are eligible to receive respite care if you are in the Basic, Basic Plus, CIIBS or ((CORE)) Core waiver and:

(1) You live in a private home and no one living with you is paid to ((be your caregiver)) provide personal care services to you:

(2) You are age eighteen or older and live with a paid caregiver personal care provider who is your natural, step or adoptive parent; or

(3) You are under the age of eighteen and live with your natural, step or adoptive parent and your paid personal care provider also lives with you; or

(4) You live with a caregiver who is paid by DDD to provide ((care to you and is)) supports as:

- (a) A contracted companion home provider; or
- (b) A licensed children's foster home provider.

AMENDATORY SECTION (Amending WSR 08-20-033, filed 9/22/08, effective 10/23/08)

WAC 388-845-1620 Are there limits to the respite care I can receive? The following limitations apply to the respite care you can receive:

(1) The DDD assessment will determine how much respite you can receive per chapter 388-828 WAC.

(2) Prior approval by the DDD regional administrator or designee is required:

(a) To exceed fourteen days of respite care per month; or

(b) To pay for more than eight hours in a twenty-four hour period of time for respite care in any setting other than your home or place of residence. This limitation does not prohibit your respite care provider from taking you into the community, per WAC 388-845-1610(2).

(3) Respite cannot replace:

(a) Daycare while your parent or guardian is at work; and/or

(b) Personal care hours available to you. When determining your unmet need, DDD will first consider the personal care hours available to you.

(4) Respite providers have the following limitations and requirements:

(a) If respite is provided in a private home, the home must be licensed unless it is the client's home or the home of a relative of specified degree per WAC 388-825-345;

(b) The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence; and

(c) If you receive respite from a provider who requires licensure, the respite services are limited to those age-specific services contained in the provider's license.

(5) Your caregiver ((will not be paid to)) may not provide DDD services for you or other persons ((at the same time you receive respite services)) during your respite care hours.

(6) If your personal care provider is your parent, your parent provider will not be paid to provide respite services to any client in the same month that you receive respite services.

(7) DDD ((cannot)) may not pay for any fees associated with the respite care; for example, membership fees at a recreational facility, or insurance fees.

(8) If you require respite from a licensed practical nurse (LPN) or a registered nurse (RN), services may be authorized as skilled nursing services per WAC 388-845-1700 using an LPN or RN. If you are in the Basic Plus waiver, skilled nursing services are limited to the dollar limits of your aggregate services per WAC 388-845-0210.

AMENDATORY SECTION (Amending WSR 08-20-033, filed 9/22/08, effective 10/23/08)

WAC 388-845-1650 What are sexual deviancy evaluations? (1) Sexual deviancy evaluations:

(a) Are professional evaluations that assess the person's needs and the person's level of risk of sexual offending or sexual recidivism;

(b) Determine the need for psychological, medical or therapeutic services; and

(c) Provide treatment recommendations to mitigate any assessed risk.

(2) Sexual deviancy evaluations are available in all ((four)) DDD HCBS waivers.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-1700 What is skilled nursing? (1) Skilled nursing is continuous, intermittent, or part time nursing services. These services are available in the Basic Plus, ((CORE)) Core, and Community Protection waivers.

(2) Services include nurse delegation services, per WAC 388-845-1170, provided by a registered nurse, including the initial visit, follow-up instruction, and/or supervisory visits.

((3) These services are available in all four HCBS waivers administered by DDD as mental health stabilization services in accordance with WAC 388-845-1150 through 388-845-1160.)

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-1800 What are specialized medical equipment and supplies? (1) Specialized medical equipment and supplies are durable and nondurable medical equipment not available through medicaid or the state plan which enables individuals to:

(a) Increase their abilities to perform their activities of daily living; or

(b) Perceive, control or communicate with the environment in which they live.

(2) Durable and nondurable medical equipment are defined in WAC 388-543-1000 and 388-543-2800 respectively.

(3) Also included are items necessary for life support; and ancillary supplies and equipment necessary to the proper functioning of the equipment and supplies described in subsection (1) above.

(4) Specialized medical equipment and supplies are available in all ((four)) DDD HCBS waivers.

NEW SECTION

WAC 388-845-1840 What is specialized nutrition and specialized clothing? (1) Specialized nutrition is available to you in the CIIBS waiver and is defined as:

(a) Assessment, intervention, and monitoring services from a certified dietitian; and/or

(b) Specially prepared food, or purchase of particular types of food, needed to sustain you in the family home. Specialized nutrition is in addition to meals a parent would provide and specific to your medical condition or diagnosis.

(2) Specialized clothing is available to you in the CIIBS waiver and defined as nonrestrictive clothing adapted to the participant's individual needs and related to his/her disability. Specialized clothing can include weighted clothing, clothing designed for tactile defensiveness, specialized footwear, or reinforced clothing.

NEW SECTION

WAC 388-845-1845 Who are qualified providers of specialized nutrition and specialized clothing? (1) Providers of specialized nutrition are:

(a) Certified dietitians contracted with DDD to provide this service or employed by an agency contracted with DDD to provide this service; and

(b) Specialized nutrition vendors contracted with DDD to provide this service.

(2) Providers of specialized clothing are specialized clothing vendors contracted with DDD to provide this service.

NEW SECTION

WAC 388-845-1850 Are there limitations to my receipt of specialized nutrition and specialized clothing?

(1) The following limitations apply to your receipt of specialized nutrition services:

(a) Services may be authorized as a waiver service only after you have accessed what is available to you under medicaid, EPSDT, and any private health insurance plan;

(b) Services must be evidence based;

(c) Services must be ordered by a physician licensed to practice in the state of Washington;

(d) Specialized diets must be periodically monitored by a certified dietitian;

(e) Specialized nutrition products will not constitute a full nutritional regime unless an enteral diet is the primary source of nutrition;

(f) Department coverage of specialized nutrition products is limited to costs that are over and above inherent family food costs;

(g) DDD reserves the right to require a second opinion by a department selected provider; and

(h) Prior approval by regional administrator or designee is required.

(2) The following limitations apply to your receipt of specialized clothing:

(a) Services may be authorized as a waiver service only after you have accessed what is available to you under medicaid, EPSDT, and any private health insurance plan;

(b) Specialized clothing must be recommended by an appropriate health professional, such as an OT, behavior therapist, or podiatrist;

(c) DDD reserves the right to require a second opinion by a department-selected provider; and

(d) Prior approval by regional administrator or designee is required.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-1900 What are specialized psychiatric services? (1) Specialized psychiatric services are specific to the individual needs of persons with developmental disabilities who are experiencing mental health symptoms. These services are available in all ((four)) DDD HCBS waivers.

(2) Service may be any of the following:

(a) Psychiatric evaluation,

(b) Medication evaluation and monitoring;

(c) Psychiatric consultation.

(3) These services are also available as a mental health stabilization service in accordance with WAC 388-845-1150 through 388-845-1160.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-2000 What is staff/family consultation and training? (1) Staff/family consultation and training is professional assistance to families or direct service providers to help them better meet the needs of the waiver person. This service is available in all ((four)) DDD HCBS waivers.

(2) Consultation and training is provided to families, direct staff, or personal care providers to meet the specific needs of the waiver participant as outlined in the individual's plan of care or individual support plan, including:

(a) Health and medication monitoring;

(b) Positioning and transfer;

(c) Basic and advanced instructional techniques;

(d) Positive behavior support; ((and))

(e) Augmentative communication systems;

(f) Diet and nutritional guidance;

(g) Disability information and education;

(h) Strategies for effectively and therapeutically interacting with the participant;

(i) Environmental consultation; and

(j) For the CIIBS waiver only, individual and family counseling.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-2005 Who is a qualified provider of staff/family consultation and training? To provide staff/family consultation and training, a provider must be one of the following licensed, registered or certified professionals and be contracted with DDD:

(1) Audiologist;

(2) Licensed practical nurse;

(3) Marriage and family therapist;

(4) Mental health counselor;

(5) Occupational therapist;

(6) Physical therapist;

(7) Registered nurse;

(8) Sex offender treatment provider;

(9) Speech/language pathologist;

(10) Social worker;

(11) Psychologist;

(12) Certified American sign language instructor;

(13) Nutritionist;

(14) ((Registered counselor)) Counselors registered or certified in accordance with the requirements of chapter 18.19 RCW;

(15) Certified dietician; ((or))

(16) Recreation therapist certified by the National Council for Therapeutic Recreation; or

(17) Providers listed in WAC 388-845-0506 and contracted with DDD to provide CIIBS intensive services.

AMENDATORY SECTION (Amending WSR 08-20-033, filed 9/22/08, effective 10/23/08)

WAC 388-845-2100 What are supported employment services? Supported employment services provide you with intensive ongoing support if you need individualized assistance to gain and/or maintain employment. These services are tailored to your individual needs, interests, abilities, and promote your career development. These services are provided in individual or group settings and are available in ((all four HCBS)) the Basic, Basic Plus, Core and Community Protection waivers.

(1) Individual supported employment services include activities needed to sustain minimum wage pay or higher. These services are conducted in integrated business environments and include the following:

- (a) Creation of work opportunities through job development;
- (b) On-the-job training;
- (c) Training for your supervisor and/or peer workers to enable them to serve as natural supports to you on the job;
- (d) Modification of your work site tasks;
- (e) Employment retention and follow along support; and
- (f) Development of career and promotional opportunities.

(2) Group supported employment services are a step on your pathway toward gainful employment in an integrated setting and include:

- (a) The activities outlined in individual supported employment services;
- (b) Daily supervision by a qualified employment provider; and
- (c) Groupings of no more than eight workers with disabilities.

NEW SECTION

WAC 388-845-2160 What is therapeutic equipment and supplies? (1) Therapeutic equipment and supplies are only available in the CIIBS waiver.

(2) Therapeutic equipment and supplies are equipment and supplies that are incorporated in a behavioral support plan or other therapeutic plan, designed by an appropriate professional, such as a sensory integration or communication therapy plan, and necessary in order to fully implement the therapy or intervention.

(3) Included are items such as a weighted blanket, supplies that assist to calm or redirect the child to a constructive activity, or a vestibular swing.

NEW SECTION

WAC 388-845-2165 Who are qualified providers of therapeutic equipment and supplies? Providers of therapeutic equipment and supplies are therapeutic equipment and supply vendors contracted with DDD to provide this service.

NEW SECTION

WAC 388-845-2170 Are there limitations on my receipt of therapeutic equipment and supplies? The fol-

lowing limitations apply to your receipt of therapeutic equipment and supplies under the CIIBS waiver:

(1) Therapeutic equipment and supplies may be authorized as a waiver service only after you have accessed what is available to you under medicaid, EPSDT, and any private health insurance plan. The department will require evidence that you have accessed your full benefits through medicaid, EPSDT, and private insurance before authorizing this waiver service.

(2) The department does not pay for equipment and supplies determined by DSHS to be experimental.

(3) The department and the treating professional determine the need for the equipment and supplies.

(4) The department reserves the right to require a second opinion from a department selected provider.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-2200 What are transportation services? Transportation services provide reimbursement to a provider when the transportation is required and specified in the waiver plan of care or individual support plan. This service is available in all ((four)) DDD HCBS waivers if the cost and responsibility for transportation is not already included in your provider's contract and payment.

(1) Transportation provides you access to waiver services, specified by your plan of care or individual support plan.

(2) Whenever possible, you must use family, neighbors, friends, or community agencies that can provide this service without charge.

NEW SECTION

WAC 388-845-2260 What are vehicle modifications? This service is only available in the CIIBS waiver. Vehicle modifications are adaptations or alterations to a vehicle required in order to accommodate the unique needs of the individual, enable full integration into the community, and ensure the health, welfare, and safety of the individual and/or family members.

NEW SECTION

WAC 388-845-2265 Who are providers of vehicle modifications? Providers of vehicle modifications are:

(1) Vehicle service providers contracted with DDD to provide this service; or

(2) Vehicle adaptive equipment vendors contracted with DDD to provide this service.

NEW SECTION

WAC 388-845-2270 Are there limitations to my receipt of vehicle modification services? The following limitations apply to your receipt of vehicle modifications under the CIIBS waiver:

(1) Prior approval by the regional administrator or designee is required.

(2) Vehicle modifications are excluded if they are of general utility without direct medical or remedial benefit to the individual.

(3) Vehicle modifications must be the most cost effective modification based upon a comparison of contractor bids as determined by DDD.

(4) Modifications will only be approved for a vehicle that serves as the participant's primary means of transportation and is owned by the family.

(5) The department reserves the right to require a second opinion from a department selected provider.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-3000 What is the process for determining the services I need? Your service needs are determined through the DDD assessment and the service planning process as defined in chapter 388-828 WAC. Only identified health and welfare needs will be authorized for payment in the ISP.

(1) You receive an initial and annual assessment of your needs using a department-approved form.

(a) You meet the eligibility requirements for ICF/MR level of care.

(b) The "comprehensive assessment reporting evaluation (CARE)" tool will determine your eligibility and amount of personal care services.

(c) If you are in the Basic, Basic Plus, CIIBS, or ((CORE)) Core waiver, the DDD assessment will determine the amount of respite care available to you.

(2) From the assessment, DDD develops your waiver plan of care or individual support plan (ISP) with you and/or your legal representative and others who are involved in your life such as your parent or guardian, advocate and service providers.

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-3085 What if my needs exceed what can be provided under the CIIBS, ((CORE)) Core or Community Protection waiver? (1) If you are on the CIIBS, ((CORE)) Core or Community Protection waiver and your assessed need for services exceeds the scope of services provided under your waiver, DDD will make the following efforts to meet your health and welfare needs:

(a) Identify more available natural supports;

(b) Initiate an exception to rule to access available non-waiver services not included in the CIIBS, ((CORE)) Core or Community Protection waiver other than natural supports;

(c) Offer you the opportunity to apply for an alternate waiver that has the services you need, subject to WAC 388-845-0045;

(d) Offer you placement in an ICF/MR.

(2) If none of the above options is successful in meeting your health and welfare needs, DDD may terminate your waiver eligibility.

(3) If you are terminated from a waiver, you will remain eligible for nonwaiver DDD services but access to state-only funded DDD services is limited by availability of funding.

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

WAC 388-845-4005 Can I appeal a denial of my request to be enrolled in a waiver? (1) If you are not enrolled in a waiver and your request to be enrolled in a waiver is denied, your appeal rights are limited to the decision that you are not eligible to have your request documented in a statewide data base ((because)) due to the following:

(a) You do not need ICF/MR level of care per WAC 388-845-0070, 388-828-8040 and 388-828-8060; or

(b) You requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520.

(2) If you are enrolled in a waiver and your request to be enrolled in a different waiver is denied, your appeal rights are limited to the following:

(a) DDD's decision that the services contained in a different waiver are not necessary to meet your health and welfare needs and that the services available on your current waiver can meet your health and welfare needs; or

(b) DDD's decision that you are not eligible to have your request documented in a statewide database because you requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520.

(3) If DDD determines that the services offered in a different waiver are necessary to meet your health and welfare needs, but there is not capacity on the different waiver, you do not have the right to appeal any denial of enrollment on a different waiver when DDD determines there is not capacity to enroll you on a different waiver.

**WSR 10-10-051
PROPOSED RULES
DEPARTMENT OF HEALTH**

[Filed April 29, 2010, 10:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-15-189.

Title of Rule and Other Identifying Information: Chapter 246-826 WAC, amending the chapter to expand the scope of practice for health care assistants.

Hearing Location(s): Department of Health, Point Plaza East, Room 152, 310 Israel Road S.E., Olympia, WA 98501, on June 8, 2010, at 1:30 p.m.

Date of Intended Adoption: June 8, 2010.

Submit Written Comments to: Erin Obenland, P.O. Box 47852, Olympia, WA 98504-7852, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2406, by June 4, 2010.

Assistance for Persons with Disabilities: Contact Erin Obenland by May 20, 2010, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SHB 1414 (chapter 43, Laws of 2009) expands the scope of practice for a health care assistant allowing them to administer certain

over-the-counter and prescription drugs. Rules need to be amended to add what drugs health care assistants can administer, which categories can administer the drugs, and the routes of administration. The proposed rules will also specify how a health care assistant may demonstrate initial and ongoing competency to administer specific drugs as determined by the health care practitioner.

Reasons Supporting Proposal: The department of health is proposing amending existing rules to reflect the change in the scope of practice and to include the legislation expiration date of July 1, 2013.

Statutory Authority for Adoption: RCW 18.135.030.

Statute Being Implemented: Chapter 18.135 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of health, health care assistant program, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Erin Obenland, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4945.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Erin Obenland, Program Manager, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4945, fax (360) 236-2406, e-mail erin.obenland@doh.wa.gov.

April 29, 2010
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 09-02-081, filed 1/7/09, effective 2/7/09)

WAC 246-826-030 Supervision of health care assistants. A health care assistant may be supervised by either the

delegator or by another practitioner who can order the act under his or her own license. The practitioner who is supervising the health care assistant must be physically present and immediately available in the facility during the administration of injections ((or))₂ vaccines or drugs authorized in RCW 18.135.130. The supervising practitioner need not be present during procedures to withdraw blood.

AMENDATORY SECTION (Amending WSR 09-02-081, filed 1/7/09, effective 2/7/09)

WAC 246-826-100 Health care assistant classification. (1) There are seven categories of health care assistants. ~~((All categories may administer vaccines with appropriate delegation and supervision. This can be done by injection, orally, topically, or by nasal administration.~~

~~(1) Category A assistants may perform venous and capillary invasive procedures for blood withdrawal.~~

~~(2) Category B assistants may perform arterial invasive procedures for blood withdrawal.~~

~~(3) Category C assistants may perform intradermal, subcutaneous and intramuscular injections for diagnostic agents and administer skin tests.~~

~~(4) Category D assistants may perform intravenous injections for diagnostic agents.~~

~~(5) Category E assistants may perform intradermal, subcutaneous and intramuscular injections for therapeutic agents and administer skin tests.~~

~~(6) Category F assistants may perform intravenous injections for therapeutic agents.~~

~~(7) Category G assistants may perform hemodialysis.)) The table in this subsection outlines the tasks authorized for each category of health care assistant. The administration of drugs pursuant to RCW 18.135.130 expires on July 1, 2013.~~

Categories	A	B	C	D	E	F	G
May perform:	Venous and capillary invasive procedures for blood withdrawal	Arterial invasion procedures for blood withdrawal	Intradermal, subcutaneous and intramuscular injections for diagnostic agents and administer skin tests	Intravenous injections for diagnostic agents	Intradermal, subcutaneous and intramuscular injections for therapeutic agents and administer skin tests	Intravenous injections for therapeutic agents	Hemodialysis
Injection	Not authorized	Not authorized	V, I	I	V, I	I	Not authorized
Oral	V	V	D, V	V	D, V	V	V
Topical	D, V	D, V	D, V	D, V	D, V	D, V	D, V
Nasal	D, V	D, V	D, V	D, V	D, V	D, V	D, V
Rectal	D	D	D	D	D	D	D
Otic	D	D	D	D	D	D	D
Ophthalmic	D	D	D	D	D	D	D
Inhaled	D	D	D	D	D	D	D

D - Drugs administered under RCW 18.135.130.

I - Drugs by injection under WAC 246-826-200.

V - Vaccines administered under RCW 18.135.120.

(2) A written order from a supervising health care practitioner authorizing the administration of drugs listed in RCW 18.135.130 must be provided to the health care assistant.

(3) Health care assistants may perform supervised delegated functions as provided under WAC 246-826-020 and 246-826-030.

(4) Health care assistants must be able to demonstrate initial and ongoing competency to the supervisor or delegator on the administration of authorized drugs listed in RCW 18.135.130. Competency may be demonstrated by:

(a) Practicing techniques in a simulated situation; or

(b) Observing and performing procedures on patients until the health care assistant demonstrates proficiency to administer authorized drugs identified in the table in subsection (1) of this section; or

(c) Documenting all training on a checklist appropriate to the facility of the administration of drugs by the health care assistant. The health care assistant must complete and sign the form, have the form signed by the supervisor and the delegator, and have the form placed in their employee personnel file; or

(d) Other methods determined by the delegator.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-826-200 Hospital or nursing home drug injection. (1) ((Class C, D, E, or F)) Health care assistants certified in categories C, D, E or F and working in a hospital or nursing home may administer by injection the ((following types of)) drugs ((by injection as)) listed in subsection (2) of this section if:

(a) Authorized and directed by a delegator; and ((as permitted by the category of certification of the health care assistant;))

(b) It is within their scope of practice as identified in the table of WAC 246-826-100.

(2) Drugs authorized to be administered by injection include:

Antihistamines

Antiinfective agents

Antineoplastic agents

Autonomic drugs

Blood derivatives

Blood formation and coagulation

Cardiovascular drugs

CNS agents

Diagnostic agents

Electrolytic, caloric and water balance

Enzymes

Gastrointestinal drugs

Gold compounds

Heavy metal antagonists

Hormones/synthetic substitutes

Local anesthetics

Oxytocics

Radioactive agents

Serums toxoids, vaccines

Skin and mucous membrane agents

Smooth muscle relaxants

Vitamins

Unclassified therapeutic agents

((2))) (3) The schedule of drugs in subsection (((1))) (2) of this section shall not include the following unless the delegator is physically present in the immediate area where the drug is administered:

(a) Any controlled substances as defined in RCW 69.50.101 (1)(d)((; or

(b) Any experimental drug ((and)); or

(c) Any cancer chemotherapy agent ((unless a delegator is physically present in the immediate area where the drug is administered)).

AMENDATORY SECTION (Amending WSR 02-06-115, filed 3/6/02, effective 4/6/02)

WAC 246-826-300 Definitions. ((This section defines terms used in hemodialysis.))

((4))) The definitions in this section apply throughout hemodialysis rules, WAC 246-826-301 through 246-826-303, unless the context clearly requires otherwise.

(1) "Competency" means the demonstration of knowledge in a specific area and the ability to perform specific skills and tasks in a safe, efficient manner.

(2) "Dialysis facility or center" means a place awarded conditional or unconditional status by the center for medicare/medicaid services to provide dialysis services. This does not include in the home setting.

(3) "Direct supervision" means the licensed health care practitioner, as required by or authorized by RCW 18.135.020, is physically present and accessible in the immediate patient care area and available to intervene, if necessary.

(4) "End-stage renal disease" (ESRD) means the stage of renal impairment that appears irreversible and permanent, and requires either the replacement of kidney functions through renal transplantation or the permanent assistance of those functions through dialysis.

(5) "Hemodialysis" means a process by which dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semipermeable membrane.

(6) "Hemodialysis technician" means a person certified as a health care assistant, Category G, by the department of health, who is authorized under chapter 18.135 RCW and these rules to assist with the direct care of patients undergoing hemodialysis and to perform certain invasive procedures under proper delegation and supervision by health care practitioners.

((2))) "Competency" means the demonstration of knowledge in a specific area and the ability to perform specific skills and tasks in a safe, efficient manner.

(3) "Hemodialysis" means a process by which dissolved substances are removed from a patient's body by diffusion

~~from one fluid compartment to another across a semipermeable membrane.~~

~~(4) "Dialysis facility or center" means a place awarded conditional or unconditional status by the center for medicaid/medicare services to provide dialysis services. This does not include in the home setting.~~

~~(5) "Direct supervision" means the licensed health care practitioner, as required by or authorized by RCW 18.135.020, is physically present and accessible in the immediate patient care area and available to intervene, when necessary.~~

~~(6)) (7) "Preceptor" means the licensed health care practitioner, as required by or authorized by RCW 18.135.020, who supervises, trains, and/or observes students providing direct patient care in a dialysis facility or center.~~

~~((7)) (8) "Training monitor" means the certified hemodialysis technician who with limited accountability mentors skill building and monitors for safety. The training monitor does not replace or substitute for the preceptor.~~

~~((8) "End-stage renal disease" (ESRD) means the stage of renal impairment that appears irreversible and permanent, and requires either the replacement of kidney functions through renal transplantation or the permanent assistance of those functions through dialysis.))~~

WSR 10-10-063
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed April 30, 2010, 10:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-06-106.

Title of Rule and Other Identifying Information: WAC 458-40-660 Timber excise tax—Stumpage value tables.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on June 8, 2010, at 10:00 a.m.

Date of Intended Adoption: June 15, 2010.

Submit Written Comments to: Mark E. Bohe, P.O. Box 47453, Olympia, WA 98504-7453, e-mail markbohe@dor.wa.gov, by June 8, 2010.

Assistance for Persons with Disabilities: Contact Martha Thomas at (360) 725-7497 no later than ten days before the hearing date. Deaf and hard of hearing individuals may call 1-800-451-7985 (TTY users).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 84.33.091 requires the department to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax. The values in the proposed rule will apply to the second half of 2010.

Copies of draft rules are available for viewing and printing on our web site at <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx>.

Reasons Supporting Proposal: The law requires that these stumpage values be updated as of January 1 and July 1 of each year.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 84.33.096.

Statute Being Implemented: RCW 84.33.091.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Mark E. Bohe, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6133; Implementation and Enforcement: Stuart Thronson, 1025 Union Avenue S.E., Suite #300, Olympia, WA, (360) 570-3230.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Mark Bohe, P.O. Box 47453, Olympia, WA 98504-7453, e-mail markbohe@dor.wa.gov, fax (360) 586-0127. The proposed rule is a significant legislative rule as defined by RCW 34.05.328.

April 30, 2010

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-02-032, filed 12/29/09, effective 1/1/10)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((January)) July 1 through ((June 30)) December 31, 2010:

**((TABLE 1—Proposed Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 2010))**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ⁽²⁾	DF	+	\$241	\$234	\$227	\$220	\$213
		2	241	234	227	220	213
		3	241	234	227	220	213
		4	241	234	227	220	213
Western Red cedar ⁽³⁾	RC	+	539	532	525	518	511
Western Hemlock ⁽³⁾	WH	+	188	181	174	167	160
		2	188	181	174	167	160
		3	188	181	174	167	160
		4	188	181	174	167	160

**((TABLE 1—Proposed Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 2010)**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽⁴⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Red Alder	RA	1	284	277	270	263	256
		2	245	238	231	224	217
Black Cottonwood	BC	1	11	4	1	1	1
Other Hardwood	OH	1	130	123	116	109	102
Douglas Fir Poles & Piles	DFL	1	517	510	503	496	489
Western Redcedar Poles	RCL	1	1337	1330	1323	1316	1309
Chipwood ⁽⁴⁾	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	144	137	130	123	116
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽⁴⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽⁵⁾ Includes Alaska Cedar.

⁽⁶⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.

⁽⁷⁾ Stumpage value per ton.

⁽⁸⁾ Stumpage value per cord.

⁽⁹⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽¹⁰⁾ Stumpage value per lineal foot.

**((TABLE 2—Proposed Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 2010)**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽⁴⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Red Alder	RA	1	284	277	270	263	256
		2	245	238	231	224	217
Black Cottonwood	BC	1	11	4	1	1	1
Other Hardwood	OH	1	130	123	116	109	102
Douglas Fir Poles & Piles	DFL	1	517	510	503	496	489
Western Redcedar Poles	RCL	1	1337	1330	1323	1316	1309
Chipwood ⁽⁴⁾	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	144	137	130	123	116
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽⁴⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽⁵⁾ Includes Alaska Cedar.

⁽⁶⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.

⁽⁷⁾ Stumpage value per ton.

⁽⁸⁾ Stumpage value per cord.

⁽⁹⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽¹⁰⁾ Stumpage value per lineal foot.

**((TABLE 2—Proposed Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 2010)**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽⁴⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir	DF	1	\$229	\$222	\$215	\$208	\$201
		2	229	222	215	208	201
		3	229	222	215	208	201
		4	229	222	215	208	201
Western Redcedar ⁽²⁾	RC	1	539	532	525	518	511
Western Hemlock ⁽³⁾	WH	1	170	163	156	149	142
		2	170	163	156	149	142

**((TABLE 3—Proposed Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 2010)**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽⁴⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ⁽²⁾	DF	1	\$226	\$219	\$212	\$205	\$198
		2	226	219	212	205	198
		3	226	219	212	205	198
		4	226	219	212	205	198
Western Redcedar ⁽³⁾	RC	1	539	532	525	518	511
Western Hemlock ⁽⁴⁾	WH	1	158	151	144	137	130

TABLE 3—Proposed Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽⁴⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Red Alder	RA	2	158	151	144	137	130
		3	158	151	144	137	130
		4	158	151	144	137	130
Red Alder	RA	1	284	277	270	263	256
		2	245	238	231	224	217
Black Cottonwood	BC	1	11	4	1	1	1
Other Hardwood	OH	1	130	123	116	109	102
Douglas Fir Poles & Piles	DFL	1	517	510	503	496	489
Western Redcedar Poles	RCL	1	1337	1330	1323	1316	1309
Chipwood ⁽⁵⁾	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	144	137	130	123	116
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽⁴⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽⁵⁾ Includes Western Larch.

⁽⁶⁾ Includes Alaska Cedar.

⁽⁷⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.

⁽⁸⁾ Stumpage value per ton.

⁽⁹⁾ Stumpage value per cord.

⁽¹⁰⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽¹¹⁾ Stumpage value per lineal foot.

TABLE 4—Proposed Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽⁴⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Lodgepole Pine	LP	1	90	83	76	69	62
Ponderosa Pine	PP	1	77	70	63	56	49
Western Redcedar ⁽³⁾	RC	1	539	532	525	518	511
Western Hemlock ⁽⁴⁾	WH	1	195	188	181	174	167
		2	195	188	181	174	167
		3	195	188	181	174	167
		4	195	188	181	174	167
Red Alder	RA	1	284	277	270	263	256
		2	245	238	231	224	217
Black Cottonwood	BC	1	11	4	1	1	1
Other Hardwood	OH	1	130	123	116	109	102
Douglas Fir Poles & Piles	DFL	1	517	510	503	496	489
Western Redcedar Poles	RCL	1	1337	1330	1323	1316	1309
Chipwood ⁽⁵⁾	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	144	137	130	123	116
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽⁴⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽⁵⁾ Includes Western Larch.

⁽⁶⁾ Includes Alaska Cedar.

⁽⁷⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁸⁾ Stumpage value per ton.

⁽⁹⁾ Stumpage value per cord.

⁽¹⁰⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽¹¹⁾ Stumpage value per lineal foot.

TABLE 4—Proposed Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽⁴⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ⁽²⁾	DF	1	\$271	\$264	\$257	\$250	\$243
		2	271	264	257	250	243
		3	271	264	257	250	243

TABLE 5—Proposed Stumpage Value Table
Stumpage Value Area 5
 January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ⁽²⁾	DF	+	\$244	\$237	\$230	\$223	\$216
		2	244	237	230	223	216
		3	244	237	230	223	216
		4	244	237	230	223	216
Lodgepole Pine	LP	+	90	83	76	69	62
Ponderosa Pine	PP	+	77	70	63	56	49
		2	54	47	40	33	26
Western Redcedar ⁽³⁾	RC	+	539	532	525	518	511
Western Hemlock ⁽⁴⁾	WH	+	189	182	175	168	161
		2	189	182	175	168	161
		3	189	182	175	168	161
		4	189	182	175	168	161
Red Alder	RA	+	284	277	270	263	256
		2	245	238	231	224	217
Black Cottonwood	BC	+	11	4	+	+	+
Other Hardwood	OH	+	130	123	116	109	102
Douglas Fir Poles & Piles	DFL	+	517	510	503	496	489
Western Redcedar Poles	RCL	+	1337	1330	1323	1316	1309
Chipwood ⁽⁵⁾	CHW	+	3	2	+	+	+
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	+	144	137	130	123	116
RC & Other Posts ⁽⁷⁾	RCP	+	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	+	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	TFX	+	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot.

TABLE 6—Proposed Stumpage Value Table
Stumpage Value Area 6
 January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ⁽²⁾	DF	+	\$99	\$92	\$85	\$78	\$71
Lodgepole Pine	LP	+	90	83	76	69	62
Ponderosa Pine	PP	+	77	70	63	56	49
		2	54	47	40	33	26
Western Redcedar ⁽³⁾	RC	+	412	405	398	391	384
True Firs and Spruce ⁽⁴⁾	WH	+	87	80	73	66	59
Western White Pine	WP	+	104	97	90	83	76
Hardwoods	OH	+	23	16	9	2	+
Western Redcedar Poles	RCL	+	412	405	398	391	384
Small Logs ⁽⁵⁾	SML	+	19	18	17	16	15
Chipwood ⁽⁶⁾	CHW	+	3	2	+	+	+
RC Shake & Shingle Blocks ⁽⁷⁾	RCS	+	144	137	130	123	116
LP & Other Posts ⁽⁸⁾	LPP	+	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁹⁾	PX	+	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽¹⁰⁾	DFX	+	0.25	0.25	0.25	0.25	0.25

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁽⁹⁾ Stumpage value per lineal foot.

TABLE 7—Proposed Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code	Hauling						
			Distance	Zone	Number	1	2	3	4
Douglas Fir ⁽²⁾	DF	+	\$99	\$92	\$85	\$78	\$71		
Lodgepole Pine	LP	+	90	83	76	69	62		
Ponderosa Pine	PP	+	77	70	63	56	49		
		2	54	47	40	33	26		
Western Redcedar ⁽³⁾	RC	+	412	405	398	391	384		
True Firs and Spruce ⁽⁴⁾	WH	+	87	80	73	66	59		
Western White Pine	WP	+	104	97	90	83	76		
Hardwoods	OH	+	23	16	9	2	+		
Western Redcedar Poles	RCL	+	412	405	398	391	384		
Small Logs ⁽⁵⁾	SML	+	19	18	17	16	15		
Chipwood ⁽⁶⁾	CHW	+	3	2	+	+	+		
RC Shake & Shingle Blocks ⁽⁷⁾	RCS	+	144	137	130	123	116		
LP & Other Posts ⁽⁷⁾	LPP	+	0.35	0.35	0.35	0.35	0.35		
Pine Christmas Trees ⁽⁸⁾	PX	+	0.25	0.25	0.25	0.25	0.25		
Other Christmas Trees ⁽⁹⁾	DFX	+	0.25	0.25	0.25	0.25	0.25		

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁽⁹⁾ Stumpage value per lineal foot.

TABLE 8—Proposed Stumpage Value Table
Stumpage Value Area 10
January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code	Hauling						
			Distance	Zone	Number	1	2	3	4
Douglas Fir ⁽²⁾	DF	+	\$257	\$250	\$243	\$236	\$229		
		2	257	250	243	236	229		
		3	257	250	243	236	229		
		4	257	250	243	236	229		
Lodgepole Pine	LP	+	90	83	76	69	62		
Ponderosa Pine	PP	+	77	70	63	56	49		
		2	54	47	40	33	26		
Western Redcedar ⁽³⁾	RC	+	525	518	511	504	497		
Western Hemlock ⁽⁴⁾	WH	+	181	174	167	160	153		
		2	181	174	167	160	153		
		3	181	174	167	160	153		
		4	181	174	167	160	153		
Red Alder	RA	+	270	263	256	249	242		
		2	231	224	217	210	203		
Black Cottonwood	BC	+	+	+	+	+	+		
Other Hardwood	OH	+	116	109	102	95	88		
Douglas Fir Poles & Piles	DFL	+	503	496	489	482	475		
Western Redcedar Poles	RCL	+	1323	1316	1309	1302	1295		
Chipwood ⁽⁵⁾	CHW	+	3	2	+	+	+		
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	+	144	137	130	123	116		
RC & Other Posts ⁽⁷⁾	RCP	+	0.45	0.45	0.45	0.45	0.45		
DF Christmas Trees ⁽⁸⁾	DFX	+	0.25	0.25	0.25	0.25	0.25		
Other Christmas Trees ⁽⁹⁾	TFX	+	0.50	0.50	0.50	0.50	0.50		

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot.)

TABLE 1—Proposed Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 2010

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$267	\$260	\$253	\$246	\$239
		2	267	260	253	246	239
		3	267	260	253	246	239
		4	267	260	253	246	239
Western Redcedar ⁽²⁾	RC	1	495	488	481	474	467
Western Hemlock ⁽³⁾	WH	1	230	223	216	209	202
		2	230	223	216	209	202
		3	230	223	216	209	202
		4	230	223	216	209	202
Red Alder	RA	1	290	283	276	269	262
		2	261	254	247	240	233
Black Cottonwood	BC	1	15	8	1	1	1
Other Hardwood	OH	1	171	164	157	150	143
Douglas-Fir Poles & Piles	DFL	1	547	540	533	526	519
Western Redcedar Poles	RCL	1	1273	1266	1259	1252	1245
Chipwood ⁽⁴⁾	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	144	137	130	123	116
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Alaska-Cedar.

⁽³⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.

⁽⁴⁾ Stumpage value per ton.

⁽⁵⁾ Stumpage value per cord.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

TABLE 2—Proposed Stumpage Value Table
Stumpage Value Area 2
July 1 through December 31, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$282	\$275	\$268	\$261	\$254
		2	282	275	268	261	254
		3	282	275	268	261	254
		4	247	240	233	226	219
Western Redcedar ⁽²⁾	RC	1	495	488	481	474	467
Western Hemlock ⁽³⁾	WH	1	239	232	225	218	211
		2	239	232	225	218	211
		3	239	232	225	218	211
		4	239	232	225	218	211
Red Alder	RA	1	290	283	276	269	262
		2	261	254	247	240	233
Black Cottonwood	BC	1	15	8	1	1	1
Other Hardwood	OH	1	171	164	157	150	143
Douglas-Fir Poles & Piles	DFL	1	547	540	533	526	519
Western Redcedar Poles	RCL	1	1273	1266	1259	1252	1245
Chipwood ⁽⁴⁾	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	144	137	130	123	116
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Alaska-Cedar.

⁽³⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.

⁽⁴⁾ Stumpage value per ton.

⁽⁵⁾ Stumpage value per cord.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

TABLE 3—Proposed Stumpage Value Table
Stumpage Value Area 3
July 1 through December 31, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Species Code Number	Timber Quality		Hauling					
			1	2	3	4	5	Distance	Zone	Number
Douglas-Fir ⁽²⁾	DF	1	\$232	\$225	\$218	\$211	\$204			
		2	232	225	218	211	204			
		3	232	225	218	211	204			
		4	232	225	218	211	204			
Western Redcedar ⁽³⁾	RC	1	495	488	481	474	467			
Western Hemlock ⁽⁴⁾	WH	1	227	220	213	206	199			
		2	227	220	213	206	199			
		3	227	220	213	206	199			
		4	227	220	213	206	199			
Red Alder	RA	1	290	283	276	269	262			
		2	261	254	247	240	233			
Black Cottonwood	BC	1	15	8	1	1	1			
Other Hardwood	OH	1	171	164	157	150	143			
Douglas-Fir Poles & Piles	DFL	1	547	540	533	526	519			
Western Redcedar Poles	RCL	1	1273	1266	1259	1252	1245			
Chipwood ⁽⁵⁾	CHW	1	3	2	1	1	1			
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	144	137	130	123	116			
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45			
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25			
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50			

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot.

TABLE 4—Proposed Stumpage Value Table
Stumpage Value Area 4
July 1 through December 31, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Species Code Number	Timber Quality		Hauling					
			1	2	3	4	5	Distance	Zone	Number
Douglas-Fir ⁽²⁾	DF	1	\$307	\$300	\$293	\$286	\$279			
		2	307	300	293	286	279			
		3	307	300	293	286	279			
		4	283	276	269	262	255			
Lodgepole Pine	LP	1	79	72	65	58	51			
Ponderosa Pine	PP	1	76	69	62	55	48			
		2	61	54	47	40	33			
Western Redcedar ⁽³⁾	RC	1	495	488	481	474	467			
Western Hemlock ⁽⁴⁾	WH	1	239	232	225	218	211			
		2	239	232	225	218	211			
		3	239	232	225	218	211			
		4	239	232	225	218	211			
Red Alder	RA	1	290	283	276	269	262			
		2	261	254	247	240	233			
Black Cottonwood	BC	1	15	8	1	1	1			
Other Hardwood	OH	1	171	164	157	150	143			
Douglas-Fir Poles & Piles	DFL	1	547	540	533	526	519			
Western Redcedar Poles	RCL	1	1273	1266	1259	1252	1245			
Chipwood ⁽⁵⁾	CHW	1	3	2	1	1	1			
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	144	137	130	123	116			
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45			
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25			
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50			

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot.

TABLE 5—Proposed Stumpage Value Table

Stumpage Value Area 5
July 1 through December 31, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Species Code Number	Timber Quality		Hauling				
			Code	Number	1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$269	\$262	\$255	\$248	\$241		
		2	269	262	255	248	241		
		3	269	262	255	248	241		
		4	269	262	255	248	241		
Lodgepole Pine	LP	1	79	72	65	58	51		
Ponderosa Pine	PP	1	76	69	62	55	48		
		2	61	54	47	40	33		
Western Redcedar ⁽³⁾	RC	1	495	488	481	474	467		
Western Hemlock ⁽⁴⁾	WH	1	215	208	201	194	187		
		2	215	208	201	194	187		
		3	215	208	201	194	187		
		4	215	208	201	194	187		
Red Alder	RA	1	290	283	276	269	262		
		2	261	254	247	240	233		
Black Cottonwood	BC	1	15	8	1	1	1		
Other Hardwood	OH	1	171	164	157	150	143		
Douglas-Fir Poles & Piles	DFL	1	547	540	533	526	519		
Western Redcedar Poles	RCL	1	1273	1266	1259	1252	1245		
Chipwood ⁽⁵⁾	CHW	1	3	2	1	1	1		
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	144	137	130	123	116		
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45		
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25		
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50		

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot.

TABLE 6—Proposed Stumpage Value Table

Stumpage Value Area 6
July 1 through December 31, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Species Code Number	Timber Quality		Hauling				
			Code	Number	1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$86	\$79	\$72	\$65	\$58		
Lodgepole Pine	LP	1	79	72	65	58	51		
Ponderosa Pine	PP	1	76	69	62	55	48		
		2	61	54	47	40	33		
Western Redcedar ⁽³⁾	RC	1	331	324	317	310	303		
True Firs and Spruce ⁽⁴⁾	WH	1	81	74	67	60	53		
Western White Pine	WP	1	55	48	41	34	27		
Hardwoods	OH	1	1	1	1	1	1		
Western Redcedar Poles	RCL	1	331	324	317	310	303		
Small Logs ⁽⁵⁾	SML	1	10	9	8	7	6		
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1		
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	144	137	130	123	116		
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35		
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25		
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25		

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁽⁹⁾ Stumpage value per lineal foot.

TABLE 7—Proposed Stumpage Value Table

Stumpage Value Area 7
July 1 through December 31, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$86	\$79	\$72	\$65	\$58
Lodgepole Pine	LP	1	79	72	65	58	51
Ponderosa Pine	PP	1	76	69	62	55	48
		2	61	54	47	40	33
Western Redcedar ⁽³⁾	RC	1	331	324	317	310	303
True Firs and Spruce ⁽⁴⁾	WH	1	81	74	67	60	53
Western White Pine	WP	1	55	48	41	34	27
Hardwoods	OH	1	1	1	1	1	1
Western Redcedar Poles	RCL	1	331	324	317	310	303
Small Logs ⁽⁵⁾	SML	1	10	9	8	7	6
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	144	137	130	123	116
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes Alaska-Cedar.

(4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

(5) Stumpage value per ton.

(6) Stumpage value per cord.

(7) Stumpage value per 8 lineal feet or portion thereof.

(8) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

(9) Stumpage value per lineal foot.

TABLE 8—Proposed Stumpage Value Table

Stumpage Value Area 10
July 1 through December 31, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$293	\$286	\$279	\$272	\$265
		2	293	286	279	272	265
		3	293	286	279	272	265
		4	269	262	255	248	241
Lodgepole Pine	LP	1	79	72	65	58	51
Ponderosa Pine	PP	1	76	69	62	55	48
		2	61	54	47	40	33
Western Redcedar ⁽³⁾	RC	1	481	474	467	460	453
Western Hemlock ⁽⁴⁾	WH	1	225	218	211	204	197
		2	225	218	211	204	197
		3	225	218	211	204	197
		4	225	218	211	204	197
Red Alder	RA	1	276	269	262	255	248
		2	247	240	233	226	219
Black Cottonwood	BC	1	1	1	1	1	1
Other Hardwood	OH	1	157	150	143	136	129
Douglas-Fir Poles & Piles	DFL	1	533	526	519	512	505
Western Redcedar Poles	RCL	1	1259	1252	1245	1238	1231
Chipwood ⁽⁵⁾	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	144	137	130	123	116
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes Alaska-Cedar.

(4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

(5) Stumpage value per ton.

(6) Stumpage value per cord.

(7) Stumpage value per 8 lineal feet or portion thereof.

(8) Stumpage value per lineal foot.

(3) Harvest value adjustments. The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.,) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber**—Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber**—Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ((January)) July 1 through ((June 30)) December 31, 2010:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
((January)) July 1 through ((June 30)) December 31, 2010

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet	Net Scribner Scale
I. Volume per acre			

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet	Net Scribner Scale
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00	
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-\$15.00	
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$35.00	
II. Logging conditions			
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00	
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	-\$50.00	
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00	
III. Remote island adjustment:			
	For timber harvested from a remote island	-\$50.00	
IV. Thinning			
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00	

TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
((January)) July 1 through ((June 30)) December 31, 2010

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet	Net Scribner Scale
I. Volume per acre			
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00	
Class 2	Harvest of 8 thousand board feet per acre and less.	-\$8.00	
II. Logging conditions			
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00	
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$50.00	
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$75.00	
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00	
Note:			
A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.			

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
III. Remote island adjustment:	For timber harvested from a remote island	-\$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through 6, and 10	\$0.00
Class 2:	SVA 7	\$0.00

Note: The adjustment will not be allowed on special forest products.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass**, has a \$0/ton stumpage value.

WSR 10-10-068
PROPOSED RULES
SECRETARY OF STATE
[Filed April 30, 2010, 1:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-02-014.

Title of Rule and Other Identifying Information: Voting, ballot processing, ranked choice voting, precinct committee officer elections.

Hearing Location(s): Office of the Secretary of State, Elections Division, 520 Union Avenue S.E., Olympia, WA, on June 8, 2010, at 11:00 a.m.

Date of Intended Adoption: July 6, 2010.

Submit Written Comments to: Katie Blinn, P.O. Box 40220, Olympia, WA 98504-0220, e-mail kblinn@sec-state.wa.gov, fax (360) 586-5629, by June 8, 2010.

Assistance for Persons with Disabilities: Contact Carolyn Berger by June 7, 2010, TTY (800) 448-4881 or (360) 902-4180.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Clarifies the processes for special filing periods, withdrawal periods, poll voters, direct recording electronic voting devices, ballot processing, voting centers, precinct committee officer elections, and voter registration transfers. Repeals references to ranked choice voting.

Reasons Supporting Proposal: Clarifies election processes for voters, election administrators, candidates, and political parties.

Statutory Authority for Adoption: RCW 29A.04.611.

Statute Being Implemented: RCW 29A.08.420, 29A.24.131, 29A.40.110, 29A.46.020, and 29A.80.041.

Name of Proponent: Office of the secretary of state, elections division, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Katie Blinn, P.O. Box 40220, Olympia, WA 98504-0220, (360) 902-4168.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

April 30, 2010

Steve Excell

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 09-12-078, filed 5/29/09, effective 6/29/09)

WAC 434-215-005 Filing information—Questionnaire—Compiling and dissemination. (1) Prior to March 1, the county auditor shall send a questionnaire to the administrative authority of each local jurisdiction for which the auditor is the candidate filing officer subject to the provisions of RCW 29A.04.321 and 29A.04.330. The questionnaire must be sent in the year the local jurisdiction is scheduled to elect officers. The purpose of the questionnaire shall be to confirm information which the auditor must use to properly conduct candidate filings for each office. The questionnaire should request, at a minimum, confirmation of offices to be filled at

the general election that year, the name of the incumbent, and the annual salary for the position at the time of the filing period. Responses should be received prior to April 1 of that year so that the filing information can be compiled and disseminated to the public at least two weeks prior to the candidate filing period.

(2) If a jurisdiction fails to notify the county auditor that an office is to be filled at the general election and therefore the office is not included in the regular candidate filing period, the county auditor shall conduct a special three-day filing period for that office under the time frames established in RCW 29A.24.171 through 29A.24.191.

AMENDATORY SECTION (Amending WSR 06-02-028, filed 12/28/05, effective 1/28/06)

WAC 434-215-065 Withdrawal of candidacy. Consistent with RCW 29A.24.131, a candidate may withdraw his or her declaration of candidacy at any time before the close of business on the Thursday following the last day for candidates to file under RCW 29A.24.050 by filing, with the officer with whom the declaration of candidacy was filed, a signed request that his or her name not be printed on the ballot. There shall be no withdrawal period for declarations of candidacy filed during special filing periods. The filing officer has discretion to permit the withdrawal of a filing for any elected office of a city, town, or special district at the request of the candidate at any time before a primary if the primary election ballots have not been ((ordered)) formatted. If no primary election is held for ((the)) that office, the filing officer has discretion to permit the withdrawal at any time before the general election ballots are ((ordered)) formatted. If jurisdiction is located in more than one county, withdrawal of a filing may only be accepted if ballots have not been formatted in all affected counties.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-215-160 Ranked choice voting.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-230-120 Ranked choice voting.

AMENDATORY SECTION (Amending WSR 07-20-074, filed 10/1/07, effective 11/1/07)

WAC 434-250-030 Applications. (1) ((As authorized by RCW 29A.40.040, requests for status as an ongoing absentee voter must be made in writing. With the exception of county auditors who conduct primaries and elections entirely by mail, each county auditor must provide applications for requests made in writing.)) Each county auditor who does not conduct all elections by mail must provide a form to

allow a poll voter to become an ongoing absentee voter. The form must include, but not be limited to, the following:

(a) A space for the voter to print his or her name and the address at which he or she is registered to vote;

(b) The address to which the ballot is to be mailed; and

(c) A space for the voter to sign and date the application.

((A voter may request status as an ongoing absentee voter by indicating such on a standard voter registration form.))

(2) As authorized by RCW 29A.40.020 and 29A.40.030, requests for a single absentee ballot may be made in person, by telephone, electronically, or in writing, and may be made by a family member. With the exception of county auditors who conduct primaries and elections entirely by mail, each county auditor must provide applications for requests made in writing. The form must include, but not be limited to, the following:

(a) A space for the voter to print his or her name and the address at which he or she is registered to vote;

(b) The address to which the ballot is to be mailed;

(c) A space for the voter to indicate for which election or elections the application is made; and

(d) A space for the voter to sign and date the application.

(3) As authorized by RCW 29A.40.050, requests for a special absentee ballot must be made in writing and each county auditor must provide the applications. In addition to the requirements for a single absentee ballot, as provided in subsection (2) of this section, the form must include:

(a) A space for an overseas or service voter not registered to vote in Washington to indicate his or her last residential address in Washington; and

(b) A checkbox requesting that a single absentee ballot be forwarded as soon as possible.

The county auditor shall honor any application for a special absentee ballot that is in substantial compliance with the provisions of this section. Any application for a special absentee ballot received more than ninety days prior to a primary or general election may be either returned to the applicant with the explanation that the request is premature or held by the auditor until the appropriate time and then processed.

(4) As authorized by RCW 29A.40.080, requests for an absentee ballot may be made by a resident of a health care facility, as defined by RCW 70.37.020(3). Each county shall provide an application form for such a registered voter to apply for a single absentee ballot by messenger on election day. The messenger may pick up the voter's absentee ballot and deliver it to the voter and return it to the county auditor's office.

AMENDATORY SECTION (Amending WSR 10-03-072, filed 1/18/10, effective 2/18/10)

WAC 434-250-100 Ballot deposit sites and voting centers. (1) If a location only receives ballots and does not issue any ballots, it is considered a ballot deposit site. Ballot deposit sites may be staffed or unstaffed.

(a) If a ballot deposit site is staffed, it must be staffed by at least two people. Deposit site staff may be employees of the county auditor's office or persons appointed by the auditor. If a deposit site is staffed by two or more persons

appointed by the county auditor, the appointees shall be representatives of different major political parties whenever possible. Deposit site staff shall subscribe to an oath regarding the discharge of their duties. Staffed deposit sites open on election day must be open from 7:00 a.m. until 8:00 p.m. Staffed deposit sites may be open prior to the election according to dates and times established by the county auditor. Staffed deposit sites must have a secure ballot box that is constructed in a manner to allow return envelopes, once deposited, to only be removed by the county auditor or by the deposit site staff. If a ballot envelope is returned after 8:00 p.m. on election day, deposit site staff must note the time and place of deposit on the ballot envelope, and such ballots must be referred to the canvassing board.

(b) Unstaffed ballot deposit sites consist of secured ballot boxes that allow return envelopes, once deposited, to only be removed by authorized staff. Ballot boxes located outdoors must be constructed of durable material able to withstand inclement weather, and be sufficiently secured to the ground or another structure to prevent their removal. From eighteen days prior to election day until 8:00 p.m. on election day, two people who are either employees of or appointed by the county auditor must empty each ballot box with sufficient frequency to prevent damage and unauthorized access to the ballots.

(2) If a location offers replacement ballots, provisional ballots, or voting on a direct recording electronic device, it is considered a voting center. The requirements for staffed ballot deposit sites apply to voting centers. Each voting center must:

(a) Be posted according to standard public notice procedures;

(b) Be an accessible location consistent with chapters 29A.16 RCW and 434-257 WAC;

(c) Be marked with signage outside the building indicating the location as a place for voting;

(d) Offer disability access voting in a location or manner that provides for voter privacy;

(e) Offer provisional ballots, which may be sample ballots that meet provisional ballot requirements;

(f) ~~((Record the name, signature and other relevant information for))~~ Require each voter who votes on a direct recording electronic voting device to sign and date the following oath, and record the information in such a manner that the ballot cannot be traced back to the voter~~((:))~~:

I do solemnly swear or affirm under penalty of perjury that I am:

A citizen of the United States;

A legal resident of the state of Washington;

At least eighteen years old on election day;

Voting only once in this election;

Not ineligible to vote due to a felony conviction; and

Not disqualified from voting due to a court order.

It is illegal to forge a signature or cast a ballot in another person's name. Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of ten thousand dollars, or both.

(g) Request identification, consistent with RCW 29A-44.205 and WAC 434-253-024, from each voter voting on a

direct recording electronic voting device or voting a provisional ballot;

(h) Issue a provisional ballot to each voter who is unable to provide identification in accordance with (g) of this subsection;

(i) Have electronic or telephonic access to the voter registration system consistent with WAC 434-250-095 if voters are voting on a direct recording electronic voting device;

(j) Provide either a voters' pamphlet or sample ballots;

(k) Provide voter registration forms;

(l) Display a HAVA voter information poster;

(m) Display the date of that election;

(n) Provide instructions on how to properly mark the ballot;

(o) Provide election materials in alternative languages if required by the Voting Rights Act; and

(p) Use an accountability form to account for all ballots issued.

(3) Ballot boxes must be secured at all times, with seal logs that document each time the box is opened and by whom. Ballots must be placed into secured transport carriers and returned to the county auditor's office or another designated location. At exactly 8:00 p.m. on election day, all ballot boxes must be emptied or secured to prevent the deposit of additional ballots.

AMENDATORY SECTION (Amending WSR 06-02-028, filed 12/28/05, effective 1/28/06)

WAC 434-250-120 Verification of the signature and postmark on ballots. (1) A ballot shall be counted only if:

~~((1)))~~ (a) It is returned in the return envelope, or a similar envelope if it contains the same information ~~((and signed affidavit and is approved by the auditor))~~;

~~((2)))~~ (b) The affidavit is signed with a valid signature in the place afforded for the signature on the envelope;

~~((3)))~~ (c) The signature has been verified pursuant to WAC 434-379-020, or if the voter is unable to sign his or her name, two other persons have witnessed the voter's mark;

~~((4)))~~ (d) The envelope is postmarked not later than the day of the election, or deposited in the auditor's office, a polling location, or a designated deposit site not later than 8:00 p.m. on election day; and

~~((5)))~~ (e) The ballot is received prior to certification of the election.

(2) Postage that includes a date, such as meter postage or a dated stamp, does not qualify as a postmark. If an envelope lacks a postmark, the date to which the voter has attested on the oath determines the validity of the ballot, per RCW 29A.40.110.

(3) If a signed affidavit and ballot are returned electronically no later than 8:00 p.m. on election day and the original documents are received prior to certification of the election, the ballot may be counted even if the postmark is after election day.

(4) The signature on the return envelope, or on a copy of the return envelope, must be compared with the signature in the voter's voter registration file using the standards established in WAC 434-379-020. The signature on a return envelope may not be rejected merely because the name in the sig-

nature is a variation of the name on the voter registration record. The canvassing board may designate in writing representatives to perform this function. All personnel assigned to the duty of signature verification shall subscribe to an oath administered by the county auditor regarding the discharge of his or her duties. Personnel shall be instructed in the signature verification process prior to actually canvassing any signatures. Local law enforcement officials may instruct those employees in techniques used to identify forgeries.

(5) The signature verification process shall be open to the public, subject to reasonable procedures adopted and promulgated by the canvassing board to ensure that order is maintained and to safeguard the integrity of the process.

AMENDATORY SECTION (Amending WSR 07-20-074, filed 10/1/07, effective 11/1/07)

WAC 434-250-330 County auditor's office as a voting center. (1) For elections conducted entirely by mail, the county auditor's office must operate as a voting center starting twenty days before an election until the day of the election beginning the day that ballots are mailed to voters((excluding)). The county auditor's office is not required to be open as a voting center on Saturdays, Sundays, ((and)) legal holidays, or other days that the office is officially closed.

(2) If the persons providing services at the county auditor's office are not employees of the county auditor's office but are persons appointed by the county auditor, the appointees must be representatives of different major political parties and must subscribe to an oath regarding the discharge of duties.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-250-150

Ranked choice voting.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-253-330

Ranked choice voting.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-261-005 Definitions. (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot. Inspection is performed on an absentee ballot as part of the initial processing, and on a poll ballot after breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election;

(2) "Duplicating ballots" is the process of making a true copy of valid votes from ballots that may not be properly counted by the vote tallying system. Ballots may be duplicated on blank ballots or by making changes on an electronic

image of the ballot. The original ballot may not be altered in any way;

(3) "Readable ballot" is any ballot that the certified vote tallying system can accept and read as the voter intended without alteration, and that meets the standards of the county canvassing board subject to the provisions contained in this title;

(4) "Unreadable ballot" is any ballot that cannot be read by the vote tallying system as the voter intended without alteration. Unreadable ballots may include, but not be limited to, ballots with damage, write-in votes, incorrect or incomplete marks, and questions of voter intent. Unreadable ballots may subsequently be counted as provided by these administrative rules;

(5) "Valid signature" on a ballot envelope for a registered voter eligible to vote in the election is:

(a) A signature verified against the signature in the voter registration file; or

(b) A mark witnessed by two people.

(6) "Overvote" is votes cast for more than the permissible number of selections allowed in a race or measure. An overvoted race or measure does not count in the final tally of that race or measure. Example of an overvote would be voting for two candidates in a single race with the instruction, "vote for one."

(7) "Undervote" is no selections made for a race or measure.

(8) "Election observers" means those persons designated by the county political party central committee chairperson to observe the counting of ballots and related elections procedures.

(9) "Seal log" is a log documenting each time a numbered seal is attached or removed from a ballot container. The log must include the seal number, date, and identifying information of persons attaching or removing the seal. Following certification of the election, the seal log must include documentation as to why the seal was removed from a ballot container.

AMENDATORY SECTION (Amending WSR 06-23-094, filed 11/15/06, effective 12/16/06)

WAC 434-261-050 Unsigned oath or mismatched signatures. (1) If a voter neglects to sign the oath on an absentee or provisional ballot envelope, signs the oath with a mark and fails to have two witnesses attest to the signature, or signs the ballot envelope but the signature on the envelope does not match the signature on the voter registration record, the auditor shall notify the voter by first class mail of the correct procedures for curing the signature. If the ballot is received during the last three business days before the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded by the last three business days before the final meeting of the canvassing board, the auditor must attempt to notify the voter by telephone using information in the voter registration record.

(2) If the voter neglects to sign the oath on an absentee or provisional ballot envelope, or signs the oath with a mark and fails to have two witnesses attest to the signature, the voter must either:

(a) Appear in person and sign the affidavit no later than the day before certification of the primary or election; or

(b) Sign a copy of the affidavit provided by the auditor, or mark the affidavit in front of two witnesses, and return it to the auditor no later than the day before certification of the primary or election.

(3) If the signature on the oath of an absentee or provisional ballot envelope does not match the signature on the voter registration record, the voter must either:

(a) Appear in person and sign a new registration form no later than the day before certification of the primary or election. The updated signature provided on the new registration form becomes the signature on the voter registration record for the current election and future elections; or

(b) Sign a copy of the affidavit provided by the auditor, and provide a photocopy of a valid government or tribal identification that includes the voter's current signature. The signature on the affidavit must match the signature on the identification, and both of those signatures must match the signature on the ballot envelope. The voter must return the signed affidavit and identification to the auditor no later than the day before certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections; or

(c) Sign a copy of the affidavit provided by the auditor in front of two witnesses who attest to the signature. The signature on the affidavit must match the signature on the ballot envelope. The voter must return the signed affidavit to the auditor no later than the day before certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections.

(4) If the signature on an absentee or provisional ballot envelope does not match the signature on the registration record because the name is different, the ballot may be counted as long as the handwriting is clearly the same. The auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form. If the signature on an absentee or provisional ballot envelope does not match the signature on the registration record because the voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(5) If the name on the signature does not match the name printed on the absentee ballot envelope, and the signature on the absentee ballot envelope does not match the signature on the voter registration record, because the ballot was signed by another registered voter, the ballot may be counted for the registered voter who actually signed the envelope if:

(a) The voter who signed the envelope can be identified;

(b) The voter who signed the envelope is registered at the same address as the voter to whom the envelope was issued;

(c) The signature on the envelope matches the signature on the voter registration record; and

(d) The voter who signed the envelope has not returned another ballot.

(6) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

((6)) (7) A record must be kept of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter signed the envelope, a copy of the envelope, a new registration form, or a change-of-name form. That record is a public record under chapter 42.56 RCW and may be disclosed to interested parties on written request.

AMENDATORY SECTION (Amending WSR 08-15-052, filed 7/11/08, effective 8/11/08)

WAC 434-262-075 Election of political party precinct committee officers. (1) Candidates for precinct committee officer file and appear on the ballot as members of a major political party. The election of political party precinct committee officers is not conducted according to a top two primary established by chapter 2, Laws of 2005 (Initiative 872). Candidates must make a public declaration of party affiliation in the form of a precinct committee officer declaration of candidacy. Write-in votes cast for an individual who has not filed a write-in declaration of candidacy shall not be counted. The candidate of each political party who receives the most votes in the August primary election is declared elected.

(2) RCW 29A.80.051 includes a requirement that, to be declared elected, a candidate for precinct committee officer must receive at least ten percent of the number of votes cast for a candidate of the same party who received the most votes in the precinct. This requirement for election is not in effect because candidates for public office do not represent a political party.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-262-210

Ranked choice voting.

NEW SECTION

WAC 434-324-076 Voter registration updates. If a voter submits a registration transfer to a new county by the statutory deadline, but the voter's previous county issues the voter a ballot before the transfer is processed and the voter votes the ballot issued by the previous county, the previous county must treat the voted ballot as if it is a provisional ballot and forward it to the voter's new county.

WSR 10-10-071

PROPOSED RULES

**DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed April 30, 2010, 3:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-08-079.

Title of Rule and Other Identifying Information: WAC 415-112-290 May I purchase service credit for out-of-state teaching? and 415-112-295 May I use "unpurchased" out-of-state teaching service credit to determine eligibility for retirement?; and new section WAC 415-112-292 May I purchase TRS Plan 2 or Plan 3 service credit for public education experience gained by teaching out-of-state or for the federal government?

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on June 18, 2010, at 1:30 p.m.

Date of Intended Adoption: July 6, 2010.

Submit Written Comments to: Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail rules@drs.wa.gov, fax (360) 753-5397, by 5:00 p.m. on June 18, 2010.

Assistance for Persons with Disabilities: Contact Ken Goolsby, rules coordinator, by June 10, 2010, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to implement ESHB 2680 (Laws of 2006) and HB 3024 (Laws of 2008) set criteria for teachers' retirement system (TRS) Plan 2 and Plan 3 members to purchase TRS service credit for teaching in another state or for the federal government.

Reasons Supporting Proposal: ESHB 2680 took effect on January 1, 2007, and HB 3024 took effect on June 12, 2008. The department needs to update its rules to assist members, employers, and department staff.

Statutory Authority for Adoption: RCW 41.50.050(5), 41.32.065, and 41.32.300.

Statute Being Implemented: RCW 41.32.065, 41.32.-813, and 41.32.868.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Ken Goolsby, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Cathy Cale, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7305.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not one of the named departments in RCW 34.05.328.

April 30, 2010
Ken Goolsby
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-12-042, filed 5/25/05, effective 6/25/05)

WAC 415-112-290 May I purchase Plan 1 service credit for out-of-state teaching? (1) ((Do I qualify to purchase service credit for out of state teaching?)) As a Plan

1 member, you may establish service credit for teaching out-of-state, which includes teaching out of the country, only if:

(a) ((Plan 1. If you are a Plan 1 member, you may establish service credit for teaching out of state, which includes teaching out of the country, only if:

((i))) You were on an official leave of absence granted by your employer when you provided the service; and

((ii))) (b) You returned to public school service in Washington state.

((iii))) (c) ((Plans 2 and 3. If you are a Plan 2 or 3 member, you may not purchase service credit for out-of-state teaching.))

(2) ((As a Plan 1 member, how do I apply to purchase service credit for out of state teaching?)) To establish such service credit, you must submit the following to the department within the time limits set in RCW 41.32.310:

(a) Proof of your out-of-state service;

(b) Proof of your official leave of absence; and

(c) Payment of contributions.

(3) ((What is the maximum amount of service credit I may purchase?)) If you meet the requirements in this section, you may establish a maximum of four years of service credit for teaching out-of-state. Except that, ((at the time of retirement,)) you may not ((have)) qualify for retirement by counting more years of service credit for out-of-state teaching than for Washington state service, unless you established the out-of-state service credit prior to July 2, 1947.

NEW SECTION

WAC 415-112-292 May I purchase TRS Plan 2 or Plan 3 service credit for public education experience gained by teaching out-of-state or for the federal government? If you earned service credit for teaching out-of-state or for the federal government, you may be eligible to purchase that public education experience as TRS service credit. The public education claimed must have been covered by a retirement or pension plan and must have been as a teacher, as defined by that retirement or pension plan.

(1) Do I qualify to purchase TRS service credit for public education experience outside of the state of Washington? You are eligible to purchase service credit under this section if you meet all the following requirements at the time of purchase:

(a) You are employed in a TRS Plan 2 or Plan 3 eligible position;

(b) You have at least two years of TRS service credit;

(c) You earned the education experience service credit by teaching in a public school in another state within the United States or with the United States federal government;

(d) The service was covered by a state, political subdivision of a state, or federal retirement plan;

(e) You are not receiving a benefit from the other system; and

(f) You are not eligible for an unreduced benefit from the other system.

(2) Do I qualify to purchase public education experience service credit if I am a substitute teacher? You may purchase service credit under this section if your employer is currently reporting you as an active substitute teacher and

you meet the requirements in subsection (1)(b) through (f) of this section.

(3) If I purchase TRS service credit for public education experience, how may it be used? The service credit you purchase under this section will be treated the same as service credit you earn in TRS. It will be used in the calculation of your retirement allowance, to qualify for retirement or early retirement, and to meet the Plan 3 ten-year vesting requirement.

(4) What is the cost of the service credit? You must pay the actuarial value of the resulting increase in your retirement allowance. The following formula is used to calculate the cost:

$$\text{Average earnings}^1 \times \text{Years of service credit being purchased} \times \text{Factor 1} = \text{Cost}$$

EXAMPLE: Will is an active TRS Plan 2 member, age sixty-one, with seventeen years of service credit. If he was eligible to retire, his annual AFC would be \$50,000. He would like to purchase three years and six months of service credit for his public education experience. The cost is calculated as follows:

$$\$50,000 \times 3.5 \times .2151 = \$37,642.50$$

The cost for Will to purchase his service credit is \$37,642.50. Factor 1 from the actuarial table in WAC 415-02-370(3) is .2151. This is determined by finding the difference between Will's age at the time of purchase (sixty-one) and age sixty-five; the difference is forty-eight months (four years). From the table, Factor 1 for forty-eight months is .2151.

(5) How much TRS service credit may I purchase for out-of-state or federal public education experience? If you meet the requirements in this section, you may purchase up to seven years (eighty-four months) of TRS service credit. You may purchase service credit in one-month increments but may not purchase a partial month of service credit.

(6) May I purchase some service credit now and some at a later date? No, you may not purchase some service credit now and some at a later date. You have one opportunity to purchase service credit under this section. You may purchase service credit from more than one retirement system provided you purchase it at the same time.

(7) How do I purchase the service credit? To purchase TRS Plan 2 or Plan 3 service credit for out-of-state or federal public education experience, you must do the following:

(a) You must complete an application provided by the department.

(i) You must complete, sign, and forward the application to your former retirement system(s).

(ii) Your former retirement system(s) must verify your service credit according to the instructions on the application.

(iii) If you are purchasing service credit from more than one retirement system, each retirement system must verify your service on a separate application.

(iv) Upon receipt of your properly completed application, the department will bill you for the service credit using the formula in subsection (4) of this section; the department will set a due date for the payment.

(b) You must make payment in full by the due date. If your payment is not received by the due date, your bill will become null and void. You may request a new bill from the department at a later date and it will reflect factors in effect at that time.

(i) You may make direct payment with either a personal or cashier's check. It may be possible to transfer funds from another eligible retirement account to pay your bill. However, DRS cannot accept funds in excess of the cost to make your purchase. You are advised to check with the administrator of your account to see if you can transfer those dollars.

(ii) Your employer may, at its option, pay some or all of the cost of the service credit.

(iii) If you are a Plan 2 member, your payment will be placed in your member account.

(iv) If you are a Plan 3 member, fifty percent of your payment will be placed in your defined contribution account and fifty percent will be placed in the trust fund from which your retirement allowance will be paid.

(8) Do I need to give up my right to a benefit from my previous retirement system for the service credit I purchase in TRS? No, you do not need to give up your right to a benefit from your previous retirement system for the service credit you purchase in TRS. At the time you purchase TRS service credit, you only need to prove that you are not currently receiving a benefit from your previous system and that you are not currently eligible for an unreduced benefit. Your previous retirement system will be required to verify this information on your application.

(9) May I purchase public education experience service credit to add to my TRS service credit and also use out-of-state teaching service credit to qualify for early retirement? Yes, you may purchase public education experience to add to your TRS service credit and/or use out-of-state teaching to qualify for early retirement. However, you may not use the same out-of-state service for both programs. Please see WAC 415-112-295. For example, if you have seven years of eligible out-of-state service credit, you may purchase five years to increase your TRS service credit and use the remaining two years to qualify for early retirement.

¹Up to sixty months of service credit will be used in determining your average earnings; for this formula, average earnings is the amount your average final compensation (AFC) would be if you retired on the date of the service credit purchase.

AMENDATORY SECTION (Amending WSR 06-18-006, filed 8/24/06, effective 9/24/06)

WAC 415-112-295 May I use ("unpurchased") out-of-state teaching service credit to determine eligibility for retirement? See RCW 41.32.065. (1) If you earned service credit in an out-of-state retirement system that covers teach-

ers in public schools and do not purchase that service credit, you may use it ((solely)) to qualify for retirement.

(2) If you use ((unpurchased)) out-of-state service credit to qualify for retirement, your retirement benefit:

(a) Will be based solely on your years of service credit in the Washington teachers' retirement system (TRS); and

(b) Will be actuarially reduced according to the age you would have been eligible to retire if you had not counted your out-of-state service credit. ((See RCW 41.32.065.)

(3) ~~You may also be eligible to purchase a limited amount of service credit for out-of-state teaching under this chapter.)~~

Example: Jane is ((a member of TRS Plan 1). She has five years of out-of-state service credit as a public school teacher and twenty-five years of service credit in TRS Plan 1. She is eligible to retire from TRS Plan 1 with thirty years of service credit; however, her retirement benefit will be based solely on her twenty-five years of TRS service credit.) fifty-eight years old with twenty-four years of TRS Plan 1 service credit. She has one year of service credit in an out-of-state retirement system that covers public school teachers. A TRS Plan 1 member is eligible to retire at age fifty-five with twenty-five years of service credit. Jane may add her twenty-four years of TRS service credit with her one year of out-of-state service credit to qualify for retirement under this provision.

Jane's retirement benefit will be based solely on her twenty-four years of TRS Plan 1 service credit. If she retires at age fifty-eight, her benefit will be reduced by an early retirement factor. The early retirement factor, .8270, is based on the difference between her actual retirement age (age fifty-eight) and the earliest age she could have received an unreduced benefit based on her twenty-four years of TRS service credit (age sixty). Jane's average final compensation (AFC) is \$5,500 and her benefit will be calculated as follows:

2% x years of service credit x AFC x factor

2% x 24 x \$5,500 x .8270 = \$2,183.28

WSR 10-10-073
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 [Filed May 3, 2010, 8:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-06-061.

Proposed

Title of Rule and Other Identifying Information: The community services division is proposing to amend WAC 388-450-0050 How does your participation in the community jobs (CJ) program affect your cash assistance and Basic Food benefits?

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>

or by calling (360) 664-6094), on June 8, 2010, at 10:00 a.m.

Date of Intended Adoption: No earlier than June 9, 2010.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 8, 2010.

Assistance for Persons with Disabilities: Contact Jennifer Johnson, DSHS rules consultant, by May 25, 2010, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendment will change the treatment of CJ income budgeting from unearned income to earned income.

Reasons Supporting Proposal: The amendment will be consistent with the USDA Food and Nutrition Service (FNS) Administrative Notice 10-27 Treatment of TANF-Funded Subsidized Employment Income published April 9, 2010.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.08A.340, 74.04.055, 74.04.057, 74.04.500, 74.04.510.

Statute Being Implemented: RCW 74.08.090, 74.04.-050, 74.08A.340, 74.04.055, 74.04.057, 74.04.500, 74.04.-510.

Rule is necessary because of federal law, Title 7 C.F.R. § 273.9 Income and deductions.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Holly St. John, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4895.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

April 27, 2010

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-14-043, filed 6/29/04, effective 7/1/04)

WAC 388-450-0050 How does your participation in the community jobs (CJ) program affect your cash assistance and Basic Food benefits? (1) There are two different types of income in the community jobs program. They are:

(a) Subsidized, where your wages are paid from TANF or SFA funds; and

(b) Unsubsidized, where your wages are paid entirely by your employer.

(2) We figure your total monthly subsidized or unsubsidized income by:

(a) Estimating the number of hours you, your case manager, and the CJ contractor expect you to work for the month; and

(b) Multiplying the number of hours by the federal or state minimum wage, whichever is higher.

(3) Because you are expected to participate and meet the requirements of CJ, once we determine what your total monthly income is expected to be, we do not change your TANF grant if your actual hours are more or less than anticipated.

(4) We treat the total income we expect you to get each month from your CJ position as:

(a) Earned income for cash assistance, except we do not count any of the CJ income for the first month you receive your paycheck.

(b) Earned income for Basic Food ((~~after you have been transferred to your employer's regular unsubsidized payroll; or~~

(e) ~~Unearned income for Basic Food while you have subsidized income~~) for all months.

(5) If your anticipated subsidized income is more than your grant amount, your cash grant is suspended. This means that you are still considered a TANF/SFA recipient, but you do not get a grant.

(a) Your grant can be suspended up to a maximum of nine months.

(b) You can keep participating in CJ even though your grant is suspended, as long as you would be eligible for a grant if we did not count your subsidized income.

(c) The months your grant is suspended do not count toward your sixty-month lifetime limit.

(6) If your unsubsidized income, after we subtract half of what you have earned is greater than your grant, your TANF/SFA case will close. This happens because your income is over the maximum you are allowed. You will still be able to participate in the CJ program for up to a total of nine months.

(7) If your income from other sources alone, not counting CJ income makes you ineligible for a cash grant, we terminate your grant and end your participation in CJ.

WSR 10-10-077
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services)
 [Filed May 3, 2010, 9:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-06-016.

Title of Rule and Other Identifying Information: The department intends to amend WAC 388-76-10585 Resident rights—Examination of inspection results and 388-76-10105.

The department intends to add new sections WAC 388-76-10584 Resident rights—Examination of license, 388-76-10106 Change of ownership—Notice to department and residents, and 388-76-10107 Change of ownership priority processing.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on June 8, 2010, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 9, 2010.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSH-SRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 8, 2010.

Assistance for Persons with Disabilities: Contact Jennifer Johnson, DSHS rules consultant, by May 25, 2010, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johns14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of amending these rules is to give adult family home residents and their families more time to prepare when there is a change of ownership and to make it easier for residents to examine inspection and complaint investigation reports.

Reasons Supporting Proposal: The proposed changes will promote improvements to the adult family home program.

Statutory Authority for Adoption: RCW 70.128.040.

Statute Being Implemented: Chapter 70.128 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Mike Tornquist, P.O. Box 45600, Olympia, WA 98513, (360) 725-3204; Implementation and Enforcement: Lori Melchiori, P.O. Box 45600, Olympia, WA 98513, (360) 725-2404.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULES: The department of social and health services' residential care services (RCS) is

proposing amendments to chapter 388-76 WAC, Adult family homes.

The purpose of this proposed rule making is to promote improvements to the adult family home program.

Highlights of proposed changes:

- Amend the WAC to make it easier for residents and other interested persons to examine inspection and complaint investigation reports and cover letters;
- Increase the amount of notice providers will be required to give to residents and the department when a change of ownership occurs.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT (SBEIS): Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses. This statute outlines information that must be included in an SBEIS. Preparation of an SBEIS is required when a proposed rule has the potential of placing more than a minor impact on a business.

RCW 19.85.020 defines a "small business" as "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, and that has fifty or fewer employees."

RCS analyzed these proposed rules and concludes that there are no new requirements in these rules that will impose any new costs on adult family homes. RCS does not believe that the proposed rules will result in any job losses or gains for adult family homes. The proposed rule amendments do not disportionately [disproportionately] impact small businesses more than larger businesses.

EVALUATION OF PROBABLE COSTS AND PROBABLE BENEFITS: RCS has determined that some of the proposed rules are "significant legislative rules" as defined by legislature. As required by RCW 34.05.328 (1)(c), RCS has analyzed the probable costs and probable benefits of the proposed amendments, taking into account both the qualitative and quantitative benefits and costs.

COSTS:

- The department does not anticipate that the proposed amended rules will increase costs for adult family home providers.
- DSHS shared the draft language and draft small business economic statement and cost-benefit analysis with interested parties who are on the RCS adult family home mailing list.
- In addition, the draft language and draft small business economic statement and cost-benefit analysis was posted on the aging and disability services administration internet web site for anyone in the public to review and comment.
- DSHS' process is to use the input from internal and external stakeholders to determine cost impacts for the drafting of the rule. To date, no comments have been received about costs for these proposed rules.

COST SAVINGS: The department does not anticipate that the proposed amended rules will decrease costs for adult family homes.

OTHER BENEFITS: The rules result in several benefits which include:

- The amendments help protect residents by making critical information about the home more easily accessible; and
- By increasing the amount of notice the provider must give residents before selling the adult family home, residents will have more time to exercise their right to decide if they want to stay in the home.

CONCLUSION: RCS concludes that the benefits of the proposed amendments exceed the possible cost.

These rules continue to implement state laws and regulations related to adult family homes. RCS has complied with the appropriate sections of the Administrative Procedure Act and is prepared to proceed with the rule filing.

Please contact Mike Tornquist by e-mail at tornqmj@dshs.wa.gov or by phone (360) 725-3204 if you have questions.

A copy of the statement may be obtained by contacting Mike Tornquist, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-3204, fax (360) 438-7903, e-mail tornqmj@dshs.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Mike Tornquist, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-3204, fax (360) 438-7903, e-mail tornqmj@dshs.wa.gov.

April 28, 2010
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-04-008, filed 1/22/10, effective 2/22/10)

WAC 388-76-10105 Application—Change of ownership. (1) Under this section, "control of the provider" means the possession, directly or indirectly, of the power to direct the management, operation and/or policies of the adult family home, whether through ownership, voting control, by agreement, by contract or otherwise.

(2) A change of ownership of an adult family home requires both a new license application and a new license.

(3) A change of ownership occurs when there is a change in:

- (a) The provider; or
- (b) The control of a provider.

(4) Events which constitute a change of ownership include, but are not limited to:

(a) The form of legal organization of the adult family home is changed, such as when an adult family home forms:

- (i) A partnership;
- (ii) A corporation;
- (iii) A limited liability company; or
- (iv) When it merges with another legal organization.

(b) The adult family home transfers business operations and management responsibility to another party, whether or not there is a partial or whole transfer of real property, personal property, or both.

(c) Two people are both licensed as a married couple or domestic partners to operate an adult family home and an event, such as a separation, divorce, or death, results in only one person operating the home.

(d) Dissolution of a business partnership that is licensed to operate the adult family home.

(e) If the adult family home is a corporation and the corporation:

(i) Is dissolved;

(ii) Merges with another corporation, resulting in a change in the control of the provider; or

(iii) Consolidates with one or more corporations to form a new corporation;

(iv) Whether by a single transaction or multiple transactions within a continuous twenty-four month period, transfers fifty percent or more of its shares to one or more of the following:

(A) New or former shareholders; or

(B) Present shareholders, each having less than five percent of the shares before the initial transaction.

(f) Any other event or combination of events that results in a substitution, elimination, or withdrawal of the provider's control of the adult family home.

(5) The new owner:

(a) Must ((~~correct all deficiencies that exist at the time~~)) obtain a new license from the department before transfer of ((the)) ownership ((change));

(b) ((~~Is subject to the provisions of chapters 70.128, 70.129, 74.34 RCW, this chapter and other applicable laws and regulations~~) Must not begin operation of the adult family home until the department has granted the license;

(c) Must ((~~obtain a new license from~~)) correct all deficiencies that exist at the time of the ((~~department before the transfer of~~)) ownership change; ((and))

(d) ((~~Must not begin operation of the adult family home until the department has granted the license~~);

(6) The home must notify each resident, in writing at least thirty days before the effective date of the ownership change.

(7) In order to prevent disruption to residents, currently licensed providers may request in writing that the department give priority processing to an applicant seeking to be licensed as the new provider for the adult family home) Is subject to the provisions of chapters 70.128, 70.129, 74.34 RCW, this chapter and other applicable laws and regulations; and

(e) Must provide the department with a copy of the written notice of the change of ownership that was given to each resident, or applicable resident representatives.

NEW SECTION

WAC 388-76-10106 Change of ownership—Notice to department and residents. (1) The current adult family home owner must provide written notice to the department, residents or applicable resident representatives, sixty calendar days prior to the date of the proposed change of ownership; and

(2) The home must include the following information in the written notice:

(a) Names of the present owner and prospective owner;

(b) Name and address of the adult family home for which the ownership is being changed;

(c) Date of proposed change;

(d) The resident's right to decide whether they want to stay or move; and

(e) Any change in the home's policies or operations that could impact a resident's ability to continue to live in the home. For example, if the new owner will be changing the home's policy on serving Medicaid eligible residents, that change might impact a resident's ability to continue receiving services in the home.

NEW SECTION

WAC 388-76-10107 Change of ownership—Priority processing. In order to prevent disruption to residents, currently licensed providers may request in writing that the department give priority processing to an applicant seeking to be licensed as the new provider for the adult family home.

NEW SECTION

WAC 388-76-10584 Resident rights—Examination of license. The adult family home must place its license to operate and any conditions on the license, in a common use area where it can be examined by residents, resident representatives, the department and anyone interested without having to ask for them.

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10585 Resident rights—Examination of inspection results. (1) The adult family home must((:

(1) Ensure each resident is given an opportunity to examine)) place the following documents in a common use area where they can be examined by residents, resident representatives, the department and anyone interested without having to ask for them.

(a) A copy of the most recent inspection report ((of the home)) and related ((plans of correction)) cover letter; and

(b) A copy of all complaint investigation reports, and any related cover letters received since the most recent inspection or not less than the last twelve months.

(2) ((~~Post a notice in a visible location in the home indicating the inspection report is available for review~~)) The adult family home must post a notice that the following documents are available for review if requested by the residents, resident representatives, the department and anyone interested.

(a) A copy of each inspection report and related cover letter received during the past three years; and

(b) A copy of any complaint investigation reports and related cover letters received during the past three years.

WSR 10-10-079
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed May 3, 2010, 9:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-04-112.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-101-3000 Definitions, 388-101-3050 Application for initial certification, 388-101-3220 Administrator responsibilities and training, and 388-101-3250 Background checks—Washington state.

The department is proposing new sections WAC 388-101-3245 Background check—General, 388-101-3253 National fingerprint background checks—Required, 388-101-3255 Background checks—Provisional hire—Pending results, 388-101-3258 Training requirements for staff hired before January 1, 2011, and 388-101-3302 Certified community residential services and supports—General training requirements.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on June 22, 2010, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 23, 2010.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 22, 2010.

Assistance for Persons with Disabilities: Contact Jennifer Johnson, DSHS rules consultant, by June 8, 2010, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposed rule making is to implement chapters 74.39A and 18.88B RCW as codified from Initiative Measure No. 1029 and E2SHB 2284, chapter 361, Laws of 2007.

Highlights of proposed changes:

- Revisions to be consistent with the training requirements in chapter 388-112 WAC.
- Revisions to implement the fingerprint-based background check requirements effective January 1, 2012.
- Clarify requirements in the criminal history background check section.

Reasons Supporting Proposal: To have the rules comply with the statutes referenced above.

Statutory Authority for Adoption: Chapter 71A.12 RCW.

Statute Being Implemented: Chapter 71A.12 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: John Gaskell, P.O. Box 45600, Olympia, WA 98513, (360) 725-3210; **Implementation and Enforcement:** Lori Melchiori, P.O. Box 45600, Olympia, WA 98513, (360) 725-2404.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement
 See Reviser's note below.

A copy of the statement may be obtained by contacting John Gaskell, Program Manager, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-3210, fax (360) 438-7903, e-mail gaskewj@dshs.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting John Gaskell, Program Manager, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-3210, fax (360) 438-7903, e-mail gaskewj@dshs.wa.gov.

April 27, 2010

Katherine I. Vasquez
 Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 10-11 issue of the Register.

WSR 10-10-080
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket UT-100148—Filed May 3, 2010, 9:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-05-107.

Title of Rule and Other Identifying Information: WAC 480-120-264 Prepaid calling services.

The proposed rule would amend the existing rule regarding disclosure requirements for prepaid calling services (PPCS).

Specifically, the proposed rule, WAC 480-120-264 (5)(a)(iv), requires PPCS providers to disclose **the number of minutes or the value of the service and the rates from which the minutes may be determined**. Additionally, the proposed rule, subsection (5)(c), requires PPCS providers to disclose information **in the language in which the service is advertised**.

Furthermore, the proposed rule clarifies that required disclosures must be either on the card or its packaging and specifies that if the PPCS provider issues a card, certain information must be on the card. Otherwise, the proposed rule includes minor revisions to clarify language within the current rule.

Hearing Location(s): Commission Hearing Room 206, Second Floor, Richard Hemstad Building, 1300 South Ever-

green Park Drive S.W., Olympia, WA 98504-7250, on June 28, 2010, at 1:30 p.m.

Date of Intended Adoption: June 28, 2010.

Submit Written Comments to: Washington Utilities and Transportation Commission, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, e-mail records@utc.wa.gov, fax (360) 586-1150, by June 7, 2010.

Assistance for Persons with Disabilities: Contact Susan Holman by June 14, 2010, TTY (360) 586-8203 or (360) 664-1243.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The utilities and transportation commission (UTC) is responsible for protecting consumers by ensuring that investor-owned utility services (such as prepaid calling services) are available and reliable, by disclosing information to better enable consumers to make choices for competitively offered utility services. The disclosures regarding the number of minutes or value of the service as well as the requirement that disclosures be made in the language in which the service is advertised are proposed for interstate services regulated by the Federal Communications Commission. The UTC believes that the same information would be beneficial for the intrastate services under our jurisdiction. The revisions and supplemental information in the proposed rule are consistent with the UTC's mission.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 80.01.040 and 80.04.160.

Statute Being Implemented: Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington utilities and transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting: Tim Zawislak, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1294; Implementation and Enforcement: David W. Danner, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1208.

No small business economic impact statement has been prepared under chapter 19.85 RCW. With the CR-101, the UTC elicited comments from interested persons regarding the economic impact of the proposed changes. The revised rule incorporates changes proposed by interested persons and will not result in or impose more than minor costs. Because there will not be more than minor increase in costs resulting from the proposed rule changes, a small business economic impact statement is not required under RCW 19.85.030(1).

A cost-benefit analysis is not required under RCW 34.05.328. The commission is not an agency to which RCW 34.05.328 applies. The proposed rule is not a significant legislative rule of the sort referenced in RCW 34.05.328(5).

May 3, 2010

David W. Danner

Executive Director and Secretary

AMENDATORY SECTION (Amending Docket UT-060676, General Order R-540, filed 3/27/07, effective 4/27/07)

WAC 480-120-264 Prepaid calling services. (1) For the purposes of this section, prepaid calling services (PPCS) means any transaction in which a customer pays for service prior to use and applies only to those services where the number of available minutes decreases as the customer uses the service. Prepaid calling services do not include flat-rated basic local service that is billed in advance of use.

(a) PPCS may require the use of an access number or authorization code.

(b) This section excludes credit cards and cash equivalent cards. Services provided at pay telephones using these cards are regulated under the provisions of WAC 480-120-263 (Pay phone service providers (PSPs)).

(2) PPCS providers must provide customers a without-charge telephone number staffed by personnel capable of:

(a) Responding to technical problems or questions related to their service twenty-four hours a day, seven days a week;

(b) Responding to general account-related questions during regular business hours; and

(c) Providing the commission's toll-free number and address to dissatisfied customers as required by WAC 480-120-165 (Customer complaints).

(3) Billing requirements for PPCS.

(a) A PPCS provider may charge only for the actual time a circuit is open for conversation. The tariff and presale document must define billing increments. The provider must not round up the length of conversation time for less than a full billing increment beyond that full increment.

(i) If a PPCS provider uses an increment based on a time measurement, the increment must not exceed one minute.

(ii) If a PPCS provider bills usage in "unit" measurements, it must clearly define units using both equivalent dollar amounts and time measurement. Unit billing increments cannot exceed the equivalent one minute rate.

(b) At the customer's request, a PPCS provider may add additional time to an existing account in exchange for an additional payment at a rate not to exceed those on file on tariff with the commission or at rates, terms and conditions pursuant to competitive classification. The PPCS provider must inform the customer of the new rates at the time of the recharge request.

(4) PPCS providers must maintain the following call-data for a minimum of twenty-four months:

(a) Dialing and signaling information that identifies the inbound access number called or the access identifier;

(b) The number of the originating phone when the information is passed to the PPCS provider;

(c) The date and time the call was originated;

(d) The duration or termination time of the call;

(e) The called number; and

(f) The personal identification number (PIN), or account number.

(5) Disclosure requirements - Prepaid calling services.

(a) A PPCS provider must disclose, prior to the sale, the following information:

(i) The PPCS provider's name as registered with the commission;

(ii) The "doing business as" name as registered with the commission, if applicable;

(iii) The maximum charge per billing increment. A PPCS provider charging varying rates for intrastate (~~(and)~~), interstate, and international calls must disclose all applicable rates;

(iv) The number of minutes or the value of the service and the rates from which the minutes may be determined:

(v) Charges for all services, including any applicable surcharges, fees, or taxes, and the method of application;

((~~(v)~~)) (vi) Expiration date, if applicable. If a (~~(earl)~~) service expires after a set period of time from activation, the PPCS provider must specify the expiration date ((~~on~~) of the (~~earl~~) service). If an expiration date is not disclosed ((~~on~~)), the ((~~earl it~~)) service will be considered unexpired indefinitely; and

((~~(vii)~~)) (vii) Recharge policy, if applicable. If a PPCS provider does not disclose the expiration date at the time service is recharged, the service will be considered unexpired indefinitely.

(b) A PPCS provider must disclose, at the time of purchase, the following information:

(i) The without-charge telephone number(s) a customer may use to resolve technical problems, service-related questions, and general account-related questions; and

(ii) Authorization code, if required, to access the service or, if applicable, the without-charge telephone number used to establish access capability.

(c) The information required to be disclosed in this subsection must be in the language in which the service is advertised.

(d) If the PPCS provider issues a card, all information contained in this subsection must be disclosed on the card or its packaging. Disclosures required in (a)(i) and (vi), (b)(i) and (ii) of this subsection must be on the card.

(e) If the PPCS provider is not the entity that packages the services for sale to the public, it must require the company that does so, through a written agreement, to comply with the disclosure requirements of this section.

(6) Time of use disclosure requirements. The PPCS provider must:

(a) Announce at the beginning of each call the time remaining on the prepaid account or prepaid calling card; and

(b) Announce the time remaining at least one minute before the prepaid account balance is depleted.

(7) When a PPCS provider has failed to provide service at rates disclosed prior to the sale or quoted at the time an account is recharged, or the PPCS provider has failed to meet performance standards, it must provide refunds for any unused service or provide equivalent service credit when requested by a customer. Refunds or credits must equal the value remaining on the prepaid calling account. The customer may choose either the refund or equivalent service credit option.

(8) Performance standards for prepaid calling services. Each PPCS provider must ensure that:

(a) Customers can complete a minimum of ninety-eight percent of all call attempts to the called party's number. The

PPCS provider will consider any busy signals or unanswered calls as completed calls.

(b) Customers can complete a minimum of ninety-eight percent of all call attempts to the PPCS provider. The PPCS provider will not consider any busy signals or unanswered calls as completed calls.

WSR 10-10-094

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF FISH AND WILDLIFE

(By the Code Reviser's Office)

[Filed May 4, 2010, 8:45 a.m.]

WAC 220-56-122, 220-56-250 and 220-56-282, proposed by the department of fish and wildlife in WSR 09-21-102 appearing in issue 09-21 of the State Register, which was distributed on November 4, 2009, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 10-10-101

PROPOSED RULES DEPARTMENT OF HEALTH

(Board of Hearing and Speech)
[Filed May 4, 2010, 11:40 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 246-828-305, creating a new section to provide for temporary practice permits to be issued to speech-language pathologist, speech-language pathology assistant, audiologist, and hearing instrument fitter/dispenser applicants while a fingerprint-based background check is completed.

Hearing Location(s): Department of Health, Town Center Two, 111 Israel Road S.E., Room 158, Tumwater, WA 98504, on June 14, 2010, at 10:00 a.m.

Date of Intended Adoption: June 14, 2010.

Submit Written Comments to: Janette Benham, Department of Health, P.O. Box 47852, Tumwater, WA 98504-7852, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by May 28, 2010.

Assistance for Persons with Disabilities: Contact Janette Benham by May 28, 2010, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules provide for temporary practice permits to be issued to a speech-language pathologist, speech-language pathology assistant, audiologist, or hearing instrument fitter/dispenser

applicant if a fingerprint-based national background check must be conducted. The national background check process is lengthy and has caused credentialing delays that may affect the public's access to healthcare. To receive the permit, the applicant must meet all other credentialing requirements, hold a credential in another state, and have no criminal record in Washington. The proposed rule will provide for qualified applicants to practice the full scope of the profession until the permit expires.

Reasons Supporting Proposal: In 2008, 4SHB 1103 (chapter 134, Laws of 2008) authorized fingerprint-based national background checks for those situations when a Washington background check is inadequate. The legislation authorized the secretary to issue a temporary permit to an applicant who must have the national background check. The proposed rule will reduce the barriers for out-of-state applicants who otherwise meet all of the requirements and hold a credential as a speech-language pathologist, speech-language pathology assistant, audiologist, or hearing instrument fitter/dispenser in another state.

Statutory Authority for Adoption: RCW 18.35.161, 18-130.064, and 18.130.075.

Statute Being Implemented: RCW 18.130.064 and 18-130.075.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of health, board of hearing and speech, governmental.

Name of Agency Personnel Responsible for Drafting: Janette Benham, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, (360) 236-4857; **Implementation:** Shannon Beigert, Department of Health, P.O. Box 47850, Olympia, WA 98504-7850, (360) 236-4904; and **Enforcement:** Karen A. Jensen, Department of Health, P.O. Box 47850, Olympia, WA 98504-7850, (360) 236-4600.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(g)(ii), a small business economic impact statement is not required for proposed rules that adopt, amend, or repeal a filing or related process requirement for applying to an agency for a license or permit.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(v) exempts rules the content of which is explicitly and specifically dictated by statute.

May 4, 2010
Janette Benham
Program Manager

NEW SECTION

WAC 246-828-305 How to obtain a temporary practice permit while the national background check is completed. Fingerprint-based national background checks may cause a delay in licensing or certification. Individuals who satisfy all other licensing or certification requirements and qualifications may receive a temporary practice permit while the national background check is completed.

(1) A temporary practice permit may be issued to an applicant who:

(a) Holds an unrestricted, active license or certification to practice as a speech-language pathologist, speech-language pathology assistant, audiologist, or hearing instrument fitter/dispenser in another state that has substantially equivalent licensing or certification standards to those in Washington state;

(b) Is not subject to denial of a license or certification or issuance of a conditional or restricted license or certification; and

(c) Does not have a criminal record in Washington state.

(2) A temporary practice permit grants the individual the full scope of practice under this chapter.

(3) A temporary practice permit will not be renewed, reissued, or extended. A temporary practice permit expires when any one of the following occurs:

(a) The license or certification is granted;

(b) A notice of decision on application is mailed to the applicant, unless the notice of decision on the application specifically extends the duration of the temporary practice permit; or

(c) One hundred eighty days after the temporary practice permit is issued.

(4) To receive a temporary practice permit, the applicant must:

(a) Submit the necessary application, fee(s), and documentation for the license or certification.

(b) Meet all requirements and qualifications for the license or certification, except the results from a fingerprint-based national background check, if required.

(c) Provide verification of having an active unrestricted license or certification to practice as a speech-language pathologist, speech-language pathology assistant, audiologist, or hearing instrument fitter/dispenser from another state that has substantially equivalent licensing or certification standards as Washington state.

(d) Submit the fingerprint card and a written request for a temporary practice permit when the department notifies the applicant the national background check is required.

WSR 10-10-102 PROPOSED RULES DEPARTMENT OF HEALTH (Board of Hearing and Speech)

[Filed May 4, 2010, 11:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-15-114.

Title of Rule and Other Identifying Information: Chapter 246-828 WAC, Hearing and speech, amending the chapter to add the requirements, including fees, for the new speech-language pathology assistant profession.

Hearing Location(s): Department of Health, Town Center Two, 111 Israel Road S.E., Room 158, Tumwater, WA 98504, on June 14, 2010, at 10:30 a.m.

Date of Intended Adoption: June 14, 2010.

Submit Written Comments to: Janette Benham, Department of Health, P.O. Box 47852, Tumwater, WA 98504-7852, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by May 28, 2010.

Assistance for Persons with Disabilities: Contact Janette Benham by May 28, 2010, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The change in statute makes it necessary for the department to develop rules for the certification of speech-language pathology assistants. The proposed rules:

1. Define certification requirements for speech-language pathology assistants.
2. Define specific procedures and tasks speech-language pathology assistants are allowed to do under direct and indirect supervision levels.
3. Establish requirements to approve education programs.
4. Establish fees for speech-language pathology assistants.

Reasons Supporting Proposal: ESSB 5601 (chapter 301, Laws of 2009) creates a new certification for speech-language pathology assistants effective July 26, 2010. The legislation expands the regulation of speech-language pathology services to include speech-language pathology assistants under the hearing and speech statute, chapter 18.35 RCW.

Statutory Authority for Adoption: RCW 18.35.161, 43.70.250.

Statute Being Implemented: Chapter 18.35 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of health, board of hearing and speech, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Janette Benham, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4857.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Janette Benham, P.O. Box 47852, Tumwater, WA 98501-7852, phone (360) 236-4857, fax (360) 236-2901, e-mail janette.benham@doh.wa.gov.

May 4, 2010
Janette Benham
Program Manager
Board of Hearing and Speech
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 06-19-109, filed 9/20/06, effective 10/21/06)

WAC 246-828-025 Definitions. (1) "Board-approved institution of higher education" means:

(a) An institution offering a program in audiology or speech-language pathology leading to a master's degree, or its equivalent, or a doctorate degree or its equivalent, that has

been accredited by the council on academic accreditation in audiology and speech-language pathology, or an equivalent program.

(b) An institution offering a speech-language pathology assistant program or a speech, language, and hearing program approved by the state board for community and technical colleges, the higher education coordinating board, or an equivalent body from another state or province. This program must lead to an associate of arts or sciences degree, certificate of proficiency, or bachelor of arts or sciences degree.

(c) A board-approved institution shall integrate instruction in multicultural health as part of its basic education preparation curriculum under RCW 43.70.615.

(2) "Postgraduate professional work experience" means a supervised full-time professional experience, or the part-time equivalent, as defined in these rules, involving direct patient/client contact, consultations, ((record keeping)) recordkeeping, and administrative duties relevant to a bona fide program of clinical work.

(a) "Full-time professional experience" means at least 30 hours per week over 36 weeks. Postgraduate professional work experience must be obtained over a period of at least 36 weeks. Applicants who obtain an Au.D. at a board-approved institution of higher education are considered to have met the postgraduate professional work experience requirement.

(b) "Part-time equivalent" means any of the following:

- (i) 15-19 hours per week over 72 weeks;
- (ii) 20-24 hours per week over 60 weeks;
- (iii) 25-29 hours per week over 48 weeks.

(3) ((Applicants who obtain an Au.D. at a board approved institution of higher education are considered to have met the postgraduate professional work experience requirement.)) "Supervising speech-language pathologist" means a licensed speech-language pathologist or speech-language pathologist certified as an educational staff associate by the superintendent of public instruction.

(4) "Direct supervision of a speech-language pathology assistant" means the supervising speech-language pathologist is on-site and in view during the procedures or tasks.

(5) "Indirect supervision of a speech-language pathology assistant" means the procedures or tasks are performed under the speech-language pathologist's overall direction and control, but the speech-language pathologist's presence is not required during the performance of the procedures or tasks.

AMENDATORY SECTION (Amending WSR 06-19-109, filed 9/20/06, effective 10/21/06)

WAC 246-828-075 Supervisors of students. (1) Students enrolled in a board approved program may perform the duties of a hearing instrument fitter/dispenser, audiologist ((or)), speech-language pathologist, or speech-language pathology assistant in the course of their training under appropriate supervision.

(a) Speech-language pathology students must be supervised by a speech-language pathologist licensed under chapter 18.35 RCW, in good standing for at least two years.

(b) Audiology students must be supervised by an audiologist licensed under chapter 18.35 RCW, in good standing for at least two years.

(c) Hearing instrument fitter and dispenser students must be supervised by either a hearing instrument fitter/dispenser or a licensed audiologist licensed under chapter 18.35 RCW, in good standing for at least two years.

(2) Students may perform only those activities that are within the scope of the profession as defined by the training program in which they are enrolled.

(3) The student shall at all times wear an identification badge readily visible to the public that identifies him or her as a student.

(4) The licensee who is supervising hearing instrument fitting and dispensing students must be physically present on the premises at all times. The supervisor must cosign all purchase agreements for the sale of hearing instruments.

(5) The licensee who is supervising speech-language pathology or audiology students may include simultaneous observations with the student or the submission of written reports or summaries by the student for supervisor monitoring, review and approval. At least fifty percent of each student's time in each diagnostic evaluation, including screening and identification, must be observed directly by a supervisor. The observations may take place on site or by closed-circuit television.

NEW SECTION

WAC 246-828-112 Speech-language pathology assistants—Minimum standards of practice. (1) A speech-language pathology assistant may only perform procedures or tasks delegated by the speech-language pathologist and must maintain patient/client/student confidentiality as directed by the speech-language pathologist.

(2) Speech-language pathology assistants may not represent themselves as speech-language pathologists.

(3) The speech-language pathology assistant must be continually supervised by the speech-language pathologist. At least ten percent of the speech-language pathology assistant's time must be providing direct service to patients/clients/students. The following procedures or tasks may only be performed under direct supervision and at the speech-language pathologist's discretion:

(a) Participating during parent conferences, case conferences, or interdisciplinary team meetings with the speech-language pathologist present.

(b) Assisting the speech-language pathologist during evaluations/assessments of patients/clients/students.

(4) The following procedures or tasks may be performed under direct or indirect supervision at the discretion of the supervising speech-language pathologist:

(a) Perform speech-language and hearing screenings for the speech-language pathologist. The speech-language pathology assistant may not interpret the results.

(b) Document patient/client/student performance (such as data, charts, graphs, progress notes, and treatment notes) and report this information to the speech-language pathologist.

(c) Implement treatment plans and protocols including individualized education programs (IEP) or individualized family service plans (IFSP) developed by the speech-language pathologist. These plans, programs, and protocols may

include speech, language, augmentative and alternative communication (AAC), assistive technology (AT), and oral-motor therapies.

(d) Perform clerical duties such as preparing materials and scheduling activities as directed by the speech-language pathologist.

(e) Check and maintain equipment as directed by the speech-language pathologist.

(f) Sign treatment notes, progress notes, and other paperwork as directed by the speech-language pathologist.

(5) The following procedures and tasks are excluded from the speech-language pathology assistant scope of practice:

(a) Tasks that require diagnosis, evaluation, or clinical interpretation.

(b) Screening and diagnosis of feeding and swallowing disorders.

(c) Development or modification of treatment plans.

(d) Implementation of therapy outside of the treatment plan.

(e) Selection of caseload.

(f) Discharge or exit patients/clients/students.

(g) Referral of patients/clients/students for additional services.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-828-300 Expired license or certification.

(1) If the license or certification has expired for three years or less, the practitioner must meet the requirements of chapter 246-12 WAC, Part 2.

(2) If the license or certification has expired for over three years, and the practitioner has been in active practice in another United States jurisdiction, the practitioner must:

(a) Submit verification of active practice from any other United States jurisdiction;

(b) Meet the requirements of chapter 246-12 WAC, Part 2.

(3) If the license or certification has expired for over three years, and the practitioner has not been in active practice in another United States jurisdiction, the practitioner must:

(a) Successfully pass the examination as provided in RCW 18.35.050;

(b) Meet the requirements of chapter 246-12 WAC, Part 2.

NEW SECTION

WAC 246-828-617 Requirements for speech-language pathology assistant certification. An applicant for certification as a speech-language pathology assistant must have the following minimum qualifications:

(1) An associate of arts or sciences degree, or a certificate of proficiency, with transcripts showing forty-five quarter hours or thirty semester hours of speech-language pathology course work and transcripts showing forty-five quarter hours or thirty semester hours of general education credit from a board-approved institution of higher education as defined in WAC 246-828-025 (1)(b). Transcripts must

reflect, or applicant must demonstrate, one hundred hours of supervised patient/client/student work experience completed within a one-year time frame, or clinical experience practicum, with at least fifty of those hours under direct supervision; or

(2) A bachelor of arts or bachelor of sciences degree with transcripts from a speech, language, and hearing program from a board-approved institution of higher education as defined in WAC 246-828-025 (1)(b). Transcripts must reflect, or applicant must demonstrate, one hundred hours of supervised patient/client/student work experience completed within a one-year time frame, or clinical experience practicum, with at least fifty of those hours under direct supervision; or

(3) A completed work experience verification form and competency checklist form developed by the board and submitted as part of the application verifying 600 hours of supervised experience within three years of application. Both forms must be submitted by July 1, 2011, to qualify for certification under this subsection. The competency checklist form shall indicate and verify that the applicant has demonstrated competencies in all the following categories:

- (a) Interpersonal skills;
- (b) Understanding of critical supervision issues;
- (c) Administering treatment protocols;
- (d) Maintaining clinical documentation and communication;
- (e) Upholding ethical behavior and maintaining confidentiality;
- (f) Following health and safety precautions;
- (g) Foundational knowledge of the profession.

AMENDATORY SECTION (Amending WSR 08-15-014, filed 7/7/08, effective 7/7/08)

WAC 246-828-990 Hearing instrument fitter/dispenser, audiologist ((and)), speech language pathologist((s)), and speech-language pathology assistant fees and renewal cycle. (1) ((Licenses)) Credentials must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) ((Licensees)) Practitioners must pay the following nonrefundable fees:

((Title of)) Audiologist/Speech-Language Pathologist

Fee Type:	Fee
<u>License application</u>	<u>\$125.00))</u>
<u>Interim permit</u>	
<u>Application</u>	<u>\$125.00</u>

((Title of)) Audiologist/Speech-Language Pathologist

Fee Type:	Fee
<u>Permit</u>	<u>100.00</u>
<u>Initial license</u>	<u>((100.00</u>
<u>Interim permit</u>	<u>100.00))</u>
<u>Application</u>	<u>125.00</u>
<u>License</u>	<u>100.00</u>
<u>Renewal</u>	<u>200.00</u>
<u>Inactive license</u>	<u>75.00</u>
<u>Late renewal penalty</u>	<u>100.00</u>
<u>Expired license reissuance</u>	<u>100.00</u>
<u>Expired inactive license reissuance</u>	<u>50.00</u>
<u>License verification</u>	<u>15.00</u>
<u>Duplicate license</u>	<u>15.00</u>

Hearing Instrument Fitter/Dispenser

Fee Type:	Fee
<u>License application</u>	<u>\$125.00</u>
<u>Initial license</u>	<u>100.00</u>
<u>Renewal</u>	<u>200.00</u>
<u>Inactive license</u>	<u>75.00</u>
<u>Late renewal penalty</u>	<u>100.00</u>
<u>Expired license reissuance</u>	<u>100.00</u>
<u>Expired inactive license reissuance</u>	<u>50.00</u>
<u>License verification</u>	<u>15.00</u>
<u>Duplicate license</u>	<u>15.00</u>

Speech-Language Pathology Assistant

Fee Type:	Fee
<u>Application</u>	<u>\$125.00</u>
<u>Renewal</u>	<u>70.00</u>
<u>Inactive credential</u>	<u>50.00</u>
<u>Late renewal penalty</u>	<u>50.00</u>
<u>Expired credential reissuance</u>	<u>50.00</u>
<u>Expired inactive credential reissuance</u>	<u>50.00</u>
<u>Credential verification</u>	<u>15.00</u>
<u>Duplicate credential</u>	<u>15.00</u>

WSR 10-10-109

PROPOSED RULES

BOARD OF PILOTAGE COMMISSIONERS

[Filed May 4, 2010, 1:16 p.m.]

Continuance of WSR 10-07-137.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district.

Hearing Location(s): 2901 Third Avenue, 4th Floor, Rainier Conference Room, Seattle, WA 98121, on May 19, 2010, at 9:00 a.m.

Date of Intended Adoption: May 19, 2010.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2901 Third Avenue, Suite 500, Seattle, WA 98121, e-mail larsonp@wsdot.wa.gov, fax (206) 515-3906, by May 11, 2010.

Assistance for Persons with Disabilities: Contact Shawna Erickson by May 17, 2010, (206) 515-3647.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to establish a Puget Sound pilotage district annual tariff.

Statutory Authority for Adoption: RCW 88.16.035.

Statute Being Implemented: Chapter 88.16 RCW.

May 4, 2010
Peggy Larson
Administrator

(public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on June 22, 2010, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 23, 2010.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSH-SRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 22, 2010.

Assistance for Persons with Disabilities: Contact Jennifer Johnson, DSHS rules consultant, by June 8, 2010, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposed rule making is to implement chapters 74.39A and 18.88B RCW as codified from Initiative Measure No. 1029 and E2SHB 2284, chapter 361, Laws of 2007.

Purpose and reasons for the proposed changes:

- Revisions to be consistent with the training requirements in chapter 388-112 WAC.
- Revisions to implement the finger print-based check requirements effective January 1, 2012.
- Chunked and clarified the criminal history background check section to make it easier to read and understand.

Reasons Supporting Proposal:

- To have the rules comply with the statutes referenced above.

Statutory Authority for Adoption: RCW 18.20.090.

Statute Being Implemented: Chapter 18.20 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Judy Johnson, P.O. Box 45600, Olympia, WA 98513, (360) 725-2591; Implementation and Enforcement: Lori Melchiori, P.O. Box 45600, Olympia, WA 98513, (360) 725-2404.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

See Reviser's note below.

A copy of the statement may be obtained by contacting Judy Johnson, Boarding Home Program Manager, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2591, fax (360) 438-7903, e-mail johnsjm1@dshs.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Judy Johnson, Boarding Home Program Manager, P.O. Box 45600, Olympia, WA 98504-5600,

WSR 10-10-119
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed May 5, 2010, 9:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-04-114.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-78A-2450 Staff, 388-78A-2470 Criminal history disclosure and background checks, 388-78A-2490 Specialized training for developmental disabilities, 388-78A-2500 Specialized training for mental illness, 388-78A-2510 Specialized training for dementia, 388-78A-2550 Administrator training documentation, 388-78A-2750 Application process, and 388-78A-3190 Denial, suspension, revocation, or nonrenewal of license statutorily required.

The department is proposing new sections WAC 388-78A-2461 Background check—General, 388-78A-2462 Background check—Washington state—Who is required to have, 388-78A-2463 Background check—National finger-print checks—Who is required to have, 388-78A-2464 Background check—Process, 388-78A-2465 Background check—Results, 388-78A-2466 Background check—Valid for two years, 388-78A-2467 Background check—Sharing by health care facilities, 388-78A-2468 Background check—Conditional hire-pending results, 388-78A-2469 Background check—disclosure statement, 388-78A-2471 Background check—Confidentiality—Use restricted—Retention, and 388-78A-2474 Training and home care aide certification.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504

phone (360) 725-2591, fax (360) 438-7903, e-mail johnsjm1@dshs.wa.gov.

April 30, 2010
 Katherine I. Vasquez
 Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 10-11 issue of the Register.

WSR 10-10-120
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services)
 [Filed May 5, 2010, 9:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-04-113.

Title of Rule and Other Identifying Information: The department intends to amend WAC 388-76-10000 Definitions, 388-76-10160 Criminal history background check—Required, 388-76-10165 Criminal history background check—Valid for two years, 388-76-10170 Criminal history background check—Information—Confidentiality—Use restricted, 388-76-10174 Background checks—Disclosure of information—Sharing of criminal background information by health care facilities, 388-76-10175 Employment—Conditional—Pending results, 388-76-10180 Employment and other unsupervised access decisions, 388-76-10130 Qualifications—Provider, entity representative and resident manager, and 388-76-10135 Qualifications—Caregiver.

The department intends to repeal WAC 388-76-10155 Unsupervised access to vulnerable adults—Prohibited and 388-76-10173 Disclosure of employee information—Employer immunity—Rebuttable presumption.

The department intends to add new sections WAC 388-76-10161 Background check—Washington state—Who is required to have, 388-76-10162 Background check—National fingerprint checks—Who is required to have, 388-76-10163 Background check—Process, 388-76-10164 Background check—Results, and 388-76-10146 Qualifications—Training and home care aide certification.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on June 22, 2010, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 23, 2010.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 22, 2010.

Assistance for Persons with Disabilities: Contact Jennifer Johnson, DSHS rules consultant, by June 8, 2010, TTY

(360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending these rules and adding new sections to implement chapters 74.39A and 18.88B RCW as codified from Initiative Measure No. 1029 and E2SHB 2284, chapter 361, Laws of 2007.

Highlights of proposed changes:

- Editorial and housekeeping changes in the following sections: Definitions, background checks, employment, and qualifications.
- To be consistent with chapter 361, Laws of 2007, E2SHB 2284.
- Clarifies what is included in a Washington state background check.
- Clarifies when a national fingerprint-based background check is required.
- Clarifies the background check process.
- Clarifies what the adult family home must do after receiving background check results.
- Clarifies rules around sharing of background check results.
- Clarifies rules for conditional employment.
- Clarifies who must be certified as a home care aide.

Reasons Supporting Proposal: To have the rules comply with the statutes referenced above.

Statutory Authority for Adoption: RCW 70.128.040.

Statute Being Implemented: Chapter 70.128 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Mike Tornquist, P.O. Box 45600, Olympia, WA 98513, (360) 725-3204; **Implementation and Enforcement:** Lori Melchiori, P.O. Box 45600, Olympia, WA 98513, (360) 725-2404.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement
 See Reviser's note below.

A copy of the statement may be obtained by contacting Mike Tornquist, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-3204, fax (360) 438-7903, e-mail tornqmj@dshs.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Mike Tornquist, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-3204, fax (360) 438-7903, e-mail tornqmj@dshs.wa.gov.

April 28, 2010
 Katherine I. Vasquez
 Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 10-11 issue of the Register.

WSR 10-10-121
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed May 5, 2010, 9:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-04-087.

Title of Rule and Other Identifying Information: Chapter 388-71 WAC, Home and community services and programs; chapter 388-112 WAC, Residential training; chapter 388-829A WAC, Alternative living; and chapter 388-829C WAC, Companion homes.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on July 6, 2010, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 7, 2010.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on July 6, 2010.

Assistance for Persons with Disabilities: Contact Jennifer Johnson, DSHS rules consultant, by June 22, 2010, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johns14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 74.39A RCW requires training for long-term care workers which includes seventy-five hours of entry-level training before a long-term care worker is eligible to provide care and also requires federal and state criminal history background checks for all long-term care workers. This law increases the basic training hour requirements for long-term care workers from thirty-two hours to seventy-five hours and increases their continuing education hour requirement from ten to twelve hours annually.

The purpose of the new language in chapters 388-71, 388-112, 388-829A, and 388-829C WAC is to implement and clarify the training requirements and the criminal history background check requirements.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 74.39A.360.

Statute Being Implemented: RCW 74.39A.360.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Brubaker, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2540.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement
 See Reviser's note below.

A copy of the statement may be obtained by contacting Kristi Knudsen, Home and Community Services, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-3213, fax (360) 407-7582, e-mail Kristi.Knudsen@dshs.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kristi Knudsen, Home and Community Services, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-3213, fax (360) 407-7582, e-mail Kristi.Knudsen@dshs.wa.gov.

April 30, 2010
 Katherine I. Vasquez
 Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 10-12 issue of the Register.

WSR 10-10-124
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed May 5, 2010, 10:04 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Chapter 308-22 WAC, Body art, body piercing, and tattooing rules, new sections WAC 308-22-010 Definitions, 308-22-020 Standard universal precautions for preventing the spread of diseases by using sterilization procedures and infection control in body art, body piercing, and tattooing, 308-22-040 Issuance of licenses—Requirements, 308-22-050 Fees, and 308-22-070 Requirements and standards—Minimum safety and sanitation standards for artist and shops, mobile units and event locations.

Hearing Location(s): Department of Licensing, Business and Professions Division, Building 2, Conference Room 209, 405 Black Lake Boulevard S.W., Olympia, WA 98502, on June 8, 2010, at 9:30 a.m.

Date of Intended Adoption: July 1, 2010.

Submit Written Comments to: Cameron Dalmas, Department Of Licensing, Body Art, Body Piercing and Tattoo Program, P.O. Box 9026, Olympia, WA 98502, e-mail ndalmas@dol.wa.gov, fax (360) 664-2550, by June 4, 2010.

Assistance for Persons with Disabilities: Contact Cameron Dalmas, by June 4, 2010, TTY (360) 664-8885 or (360) 664-6643.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 18.300 RCW the law relating to body art, body piercing, and tattooing was passed by legislature during the 2009 legislative session. The department has developed rules to carry out this new law.

New sections WAC 308-22-010 Definitions, 308-22-020 Standard universal precautions for preventing the spread of diseases by using sterilization procedures and infection con-

trol in body art, body piercing, and tattooing, 308-22-040 Issuance of licenses—Requirements, 308-22-050 Fees (see proposed fees shown below), and 308-22-070 Requirements and standards—Minimum safety and sanitation standards for artist and shops, mobile units and event locations.

Title of Fee	Fee
Individual License:	
Tattoo	\$250
Body Art	\$250
Body Piercing	\$250
Permanent Cosmetics	\$250
Location License:	
Shop/Business	\$300
Mobile Unit	\$300
Event	\$300
Individual License Renewal:	
Tattoo	\$250
Body Art	\$250
Body Piercing	\$250
Permanent Cosmetics	\$250
Location License Renewal:	
Shop/Business	\$300
Mobile Unit	\$300
Event	\$300
Individual License Late Renewal:	
Tattoo	\$350
Body Art	\$350
Body Piercing	\$350
Permanent Cosmetics	\$350
Location License Late Renewal:	
Shop/Business	\$400
Mobile Unit	\$400
Duplicate License	\$50

Reasons Supporting Proposal: In order to efficiently regulate the professions outlined in chapter 18.300 RCW, rules must be adopted that further clarify the requirements of the law.

Statutory Authority for Adoption: RCW 18.300.020.

Statute Being Implemented: Chapter 18.300 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Colard, 405 Black Lake Boulevard S.W., Olympia, WA 98502, (360) 664-6647.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules are exempt under RCW 34.05.32.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule revi-

sion. Washington state department of licensing is not a named agency, therefore exempt from the provision.

May 5, 2010
Walt Fahrer
Rule Coordinator

Reviser's note: The typographical error in the above material occurred in the copy filed by the department of licensing and appears in the Register pursuant to the requirements of RCW 34.08.040.

Chapter 308-22 WAC

BODY ART, BODY PIERCING, AND TATTOOING RULES

NEW SECTION

WAC 308-22-010 Definitions. For purposes of these rules, the following words and phrases have the following meanings unless the context clearly indicates otherwise.

"Antiseptic" means an agent that destroys disease-causing microorganisms on human skin or mucosa.

"Aseptic technique" means a procedure that prevents contamination of any object or person.

"Bloodborne pathogens" means microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

"Branding" means inducing a pattern of scar tissue by application of a heated material (usually metal) to the skin creating a serious burn which eventually results in a scar.

"Cleaning area" means an area, physically separated from all work stations or waiting areas, where contaminated tools or equipment are sanitized and disinfected.

"Department" means the department of licensing.

"Disinfect" or "disinfection" means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

"Disinfectant" means a substance or solution, registered with the United States Environmental Protection Agency (EPA) that kills or inactivates viruses and pathogenic microorganisms, but not necessarily their spores.

"Event license" is a temporary location license to hold a body art, body piercing, or tattooing convention or event in the state of Washington. Event license holders must meet the same requirements for a location license as defined under RCW 18.300.010.

"FDA" means United States food and drug administration.

"Gloves" mean single-use disposable medical grade gloves that are FDA approved.

"Hand sanitizer" means an alcohol-based sanitizer with a concentration of sixty percent to ninety-five percent ethanol or isopropanol.

"Jewelry" means any personal ornament inserted into a newly pierced area, which must be made of surgical implant-grade stainless steel, solid 14k or 18k white or yellow gold, niobium, titanium, or platinum, or a dense, low-porosity plas-

tic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

"Licensee" means a shop, business or individual licensed to practice body art, body piercing, or tattooing.

"Mobile unit" is a location license under this chapter where the practice of body art, body piercing, or tattooing is conducted in a mobile structure. Mobile units must conform to the health and safety standards as defined under chapter 18.300 RCW.

"Mucous membranes" line various body cavities that are exposed to the external environment and internal organs. They are at several places continuous with skin at the: Nostribs, lips, ears, genital area, and anus. The sticky, thick fluid secreted by the mucous membranes and glands is termed mucus. The term mucous membrane refers to where they are found in the body and not every mucous membrane secretes mucus.

"Permanent cosmetics" includes the application of permanent eyeliner, eyebrows, lip liner, full lip color, and repigmentation using tattooing techniques of placing pigment under the skin. It is a form of tattooing.

"Procedure" means a body art, body piercing, and tattooing procedure.

"Procedure area" means any surface of an inanimate object that contacts the client's skin during a procedure and all surfaces where instruments and supplies are placed during a procedure.

"Sanitize" means a procedure that reduces the level of microbial contamination so that the item or surface is considered safe.

"Scarification" means altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as keloids.

"Sharps" means any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucous membrane including, but not limited to, pre-sterilized, single-use needles, scalpel blades, and razor blades.

"Sharps container" means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the international biohazard symbol.

"Single use" means products, instruments or items that are intended for one-time use and are disposed of after each use including, but not limited to, cotton swabs or balls, tissue or paper products, paper or plastic cups, gauze and sanitary coverings, razors, needles, scalpel blades, stencils, ink cups, and protective gloves.

"Sterilization" means a process that destroys all forms of microbial life, including highly resistant bacterial spores.

"Sterilizer" means an apparatus that is registered and listed with the FDA for destroying all forms of microbial life, including highly resistant bacterial spores.

"Universal precautions" is an approach to infection control as defined by the Center for Disease Control (CDC). According to the concept of universal precautions, all human blood and certain body fluids are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV) and other bloodborne pathogens.

"Work stations" means the area or room used for the purpose of performing body art, body piercing, or tattooing procedures.

NEW SECTION

WAC 308-22-020 Standard universal precautions for preventing the spread of diseases by using sterilization procedures and infection control in body art, body piercing, and tattooing. Every licensee shall comply with the requirements established by the department of health under WAC 246-145-015, 246-145-050, and 246-145-060.

NEW SECTION

WAC 308-22-040 Issuance of licenses—Requirements. Upon completion of an application and payment of the proper fee, the director shall issue the appropriate license to any person who:

(1) Is at least eighteen years old or older. Minors are prohibited from working in tattoo studios or any occupation where there is a risk of exposure to fluids or transmission of infectious agents. WAC 296-125-030.

(2) Provides proof of bloodborne pathogen certification. All bloodborne pathogen training courses must comply with OSHA 29 C.F.R. 1910.1030 standards.

(3) No artist may apply a tattoo to any minor under the age of eighteen. RCW 26.28.085.

NEW SECTION

WAC 308-22-050 Fees. The following fees shall be charged by the professional licensing division of the department of licensing. The department may require payment of fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve.

Title of Fee	Fee
Individual License:	
Tattoo	\$250
Body Art	\$250
Body Piercing	\$250
Permanent Cosmetics	\$250
Location License:	
Shop/Business	\$300
Mobile Unit	\$300
Event	\$300
Individual License Renewal:	
Tattoo	\$250
Body Art	\$250
Body Piercing	\$250
Permanent Cosmetics	\$250
Location License Renewal:	
Shop/Business	\$300

Title of Fee	Fee
Mobile Unit	\$300
Event	\$300
Individual License Late Renewal:	
Tattoo	\$350
Body Art	\$350
Body Piercing	\$350
Permanent Cosmetics	\$350
Location License Late Renewal:	
Shop/Business	\$400
Mobile Unit	\$400
Duplicate License	\$50

NEW SECTION

WAC 308-22-070 Requirements and standards— Minimum safety and sanitation standards for artists and shops, mobile units, and event locations.

(1) Every licensee shall maintain the following safety and sanitation standards:

(a) Each location shall have a waiting area that is physically separated from the work stations and equipment cleaning area.

(b) Locations that use only disposable equipment are exempt from having a separate equipment cleaning area.

(c) The work stations and equipment cleaning area must be separated from living quarters by a floor to ceiling wall and closed doors during business hours.

(d) All locations must have access to an equipment cleaning area with a sink available. Sinks must have hot and cold running water. Sinks in equipment cleaning areas are to be used for disinfecting supplies, tools, equipment, and other materials. These sinks must be labeled "not for public use."

(e) All locations must have access to a separate hand washing sink, with hot and cold running water, for public use. Sinks must be supplied with single-use hand soap and disposable towels or an air dryer.

(f) Creams and lotions must be dispensed using a disposable or sanitized and disinfected applicator.

(g) After restroom use and before providing services to clients, licensees must wash hands with single-use soap and/or hand sanitizer and use disposable or single-use hand-drying towels or an air dryer.

(h) Waste containers must be emptied, sanitized, and disinfected daily.

(i) All locations shall be kept free of rodents and vermin and protected from infestation by insects.

(2) Work stations.

(a) No two workstations should overlap or share work-space.

(b) Each workstation must have a sealable, rigid, puncture-proof sharps container. Each container must be labeled with the international biohazard symbol.

(3) **Client records.** The shop/business must keep a record of all customers receiving services. Those records must include, but are not limited to:

(a) Customer's name, age, and address;

- (b) Date of the procedure;
- (c) Body art, body piercing, or tattoo practitioner's name;
- (d) Location of and type of procedure;
- (e) Customer signature;
- (f) Client records must be retained for a minimum of two years and made available upon request by department personnel.

(4) Articles in contact with a client.

(a) All items, which come in direct contact with the client's skin that do not require disinfecting, must be sanitized.

(b) All articles, which come in direct contact with the client's skin that cannot be sanitized and disinfected, must be disposed of in a covered waste receptacle immediately after use.

(c) Disposable protective gloves must be disposed of upon removal.

(d) Liquids must be dispensed with a squeeze bottle or pump.

(5) Refuse and waste material.

(a) All chemical, flammable, toxic or otherwise harmful waste material must be deposited in a hands free covered waste receptacle and disposed of properly at the close of each business day.

(b) All nonchemical waste related to the performance of services must be deposited in a hands free covered waste receptacle to avoid the potential for cross contamination through release of or exposure to infectious waste materials.

(c) Containers located in the reception or office area, which do not contain waste relating to the performance of services, are exempt from having covers.

(6) **Disinfecting electrical tools and implements.** Electrical tools and implements must be disinfected after service on each client in the following order:

- (a) Remove any foreign matter or debris;
- (b) Disinfect with an EPA hospital grade disinfectant.

(7) Storage of tools and implements.

(a) New and/or sanitized and disinfected tools and implements must be stored separately from all others.

(b) Roller storage receptacles and contents must be sanitized and disinfected and free of foreign material.

(c) Storage cabinets, work stations, and storage drawers for sanitized and disinfected tools and implements must be clean, free of debris, and used only for sanitized and disinfected tools and implements.

(d) All used nondisposable tools and implements must be kept in a separate, puncture resistant container.

(8) Floors, walls, and other surfaces.

(a) All floors in work station areas must be made of a smooth, durable, nonabsorbent, nonporous material that is easily cleanable and can be maintained in a sanitary manner at all times.

(b) All other floors and floor coverings that are not in work station areas must be kept clean and in good repair or replaced so that they do not become a hazard to safety or health.

(c) All surfaces, including counters, tables, and client chairs, shall be made of smooth, nonabsorbent, and nonporous material that is easily cleanable and can be maintained in a sanitary manner at all times.

WSR 10-10-125
PROPOSED RULES
STATE BOARD OF HEALTH

[Filed May 5, 2010, 10:53 a.m.]

Original Notice.

Expedited rule making—Proposed notice was filed as WSR 10-04-069.

Title of Rule and Other Identifying Information: WAC 246-760-100 Auditory and visual standards—School districts.

Hearing Location(s): Hilton Garden Inn Seattle/North Everett, 8401 Paine Field Boulevard, Mukilteo, WA 98275, on June 9, 2010, at 1:30 p.m.

Date of Intended Adoption: June 9, 2010.

Submit Written Comments to: Teresa Cooper, Washington State Department of Health, P.O. Box 47880, Olympia, WA 98504-7880, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-3530, by June 3, 2010.

Assistance for Persons with Disabilities: Contact Teresa Cooper by May 31, 2010, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal updates and corrects the rule regarding visual screening of children in public schools. Ophthalmologists, optometrists and opticians who donate their services, may participate in vision screenings in schools.

Reasons Supporting Proposal: The current rule prohibits ophthalmologists, optometrists and opticians from participating in visual screening of children in schools. ESSB 5889 was passed in 2009, and expressly allows these vision professionals to perform screening in schools. The rule revision is necessary to make the rule consistent with statute.

Statutory Authority for Adoption: RCW 28A.210.020.

Statute Being Implemented: RCW 28A.210.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State board of health, governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Cooper, Department of Health, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-3530; Implementation and Enforcement: Superintendent of Public Instruction, 600 Washington Street S.E., Olympia, WA 98501, (360) 725-6000.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(e), a small business economic impact statement is not required for a proposed rule where the content of the rule is explicitly and specifically dictated by statute.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(v) exempts rules the content of which is explicitly and specifically dictated by statute.

May 5, 2010
Craig McLaughlin
Executive Director

AMENDATORY SECTION (Amending WSR 02-20-079, filed 9/30/02, effective 10/31/02)

WAC 246-760-100 What are the qualifications for visual screening personnel? (1) Screening must be performed by persons competent to administer screening procedures as a function of their professional training and background or special training and demonstrated competence under supervision.

(2) Technicians and nonprofessional volunteers must have adequate preparation and thorough understanding of the tests as demonstrated by their performance under supervision.

(3) Supervision, training, reporting and referral shall be the responsibility of a professional person specifically designated by the school administration. He or she may be a school nurse or public health nurse, a special educator, teacher or administrator who possesses basic knowledge of the objectives and methods of visual acuity screening, supervisory experience and ability, demonstrated ability to teach others and demonstrated capacity to work well with people.

~~((4) Screening may not be performed by ophthalmologists, optometrists, or opticians or any individuals who may have a conflict of interest.))~~